#### CITY OF MEMPHIS COUNCIL AGENDA CHECK OFF SHEET

ONE ORIGINAL | Planning & Development DIVISION ONLY STAPLED TO DOCUMENTS Planning & Zoning COMMITTEE: 10/19/2021 DATE PUBLIC SESSION: 10/19/2021 DATE ITEM (CHECK ONE) ORDINANCE CONDEMNATIONS GRANT ACCEPTANCE / AMENDMENT RESOLUTION GRANT APPLICATION REQUEST FOR PUBLIC HEARING OTHER: ITEM DESCRIPTION: A resolution approving a street closure and vacation SAC 21-7 CASE NUMBER: DEVELOPMENT: Right-of-way closure and vacation LOCATION: East-west public street immediately east of the intersection of the east line of Henderson Street with the west line of Hindman Avenue COUNCIL DISTRICTS: District 7 and Super District 8 - Positions 1, 2, and 3 OWNER/APPLICANT: MIM LLC REPRESENTATIVES: Dedrick Brittenum, Jr. EXISTING ZONING: Residential Single-Family - 15 (R-15) Close and vacate public right-of-way of an east-west public street REQUEST: 0.099 acres AREA: RECOMMENDATION: The Division of Planning and Development recommended Approval with conditions The Land Use Control Board recommended Approval with conditions RECOMMENDED COUNCIL ACTION: No Public Hearing Required Set public hearing date for - October 19, 2021 PRIOR ACTION ON ITEM: APPROVAL - (1) APPROVED (2) DENIED (1)09/09/2021 DATE (1) Land Use Control Board ORGANIZATION - (1) BOARD / COMMISSION (2) GOV'T. ENTITY (3) COUNCIL COMMITTEE FUNDING: REQUIRES CITY EXPENDITURE - (1) YES (2) NO AMOUNT OF EXPENDITURE REVENUE TO BE RECEIVED SOURCE AND AMOUNT OF FUNDS OPERATING BUDGET CIP PROJECT # FEDERAL/STATE/OTHER ADMINISTRATIVE APPROVAL: **POSITION** MUNICIPAL PLANNER DEPUTY ADMINISTRATOR ADMINISTRATOR DIRECTOR (JOINT APPROVAL) COMPTROLLER FINANCE DIRECTOR CITY ATTORNEY CHIEF ADMINISTRATIVE OFFICER COMMITTEE CHAIRMAN



#### Memphis City Council Summary Sheet

#### **SAC 21-7**

Resolution requesting to close and vacate part of Hindman Avenue, an east-west public street located immediately east of the intersection of the east line of Henderson Street with the west line of Hindman Avenue:

- This item is a resolution with conditions to allow the above; and
- The Division of Planning & Development at the request of the Owner/Applicant(s): MIM LLC and Representative(s): Dedrick Brittenum, Jr.; and
- This item may require a new public improvement contract.

#### RESOLUTION

A resolution approving the closure of part of Hindman Avenue, an eastwest public street located immediately east of the intersection of the east line of Henderson Street with the west line of Hindman Avenue, known as case number SAC 21-7.

**WHEREAS**, the City of Memphis is the owner of real property known as Hindman Avenue, the east-west public right-of-way east of Henderson Street in Memphis, Tennessee and being more particularly described as follows:

Beginning at a nail set at the intersection of the centerline of Hindman Avenue (40' wide) and the east line of Henderson Street (50' wide) having TN state plane coordinates (NAD83) of N:337602.08, E:769901.92; thence along the centerline of Hindman easterly with a bearing of S 86°07'05" E a distance of 215.00 feet to an iron pin set; thence southerly with a bearing of S 03°14'55" W a distance of 20.00 feet to a point; thence westerly along the southerly line of Hindman Avenue with a bearing of N 86°07'05" W a distance of 215.00 feet to a point; thence northerly with a bearing of N 03°14'55" E a distance of 20.00 feet to the point of beginning; containing 4300.00 square feet or 0.099 acres more or less.

**WHEREAS**, the City of Memphis has reviewed the recommendation of the Land Use Control Board and the report and recommendation of the Division of Planning and Development and desires to close the hereinabove described public right-of-way and it is deemed to be in the best interest of the City of Memphis that said public right-of-way be vacated, and revert to the abutting property owner(s); and

**WHEREAS**, a public hearing in relation thereto was held before the Memphis and Shelby County Land Use Control Board on September 9, 2021, and said Board has submitted its findings and recommendation to the Council of the City of Memphis subject to the following conditions:

- 1. Any existing sanitary sewers, drainage facilities, or other utilities shall be relocated at the applicant's expense or overlaid with an easement.
- 2. The applicant shall comply with all conditions of the closure within three years of the conditional approval of the closure by the Council of the City of Memphis.
- 3. If the owner of Tax Parcel 070028 00015 is able to sign the closure agreement within the three-year conditional approval time, that section of this street closure may be approved

administratively through the submittal of a closure plat to the City of Memphis Real Estate Department.

**NOW THEREFORE BE IT RESOLVED**, by the Council of the City of Memphis that the above described public right-of-way be and is hereby closed for public use, subject to the aforementioned conditions.

**BE IT FURTHER RESOLVED**, that the Mayor is hereby authorized to execute all Quitclaim Deed(s) to the owners of the properties abutting on the above described public right-of-way, said Deeds not to be delivered until the conditions herein stated have been met by applicant.

**BE IT FURTHER RESOLVED**, that a copy of this resolution be sent to the Lawyers Title Insurance Company, the Memphis Title Company, the Chicago Title Company, the Security Title Company and the Shelby County Property Assessor's Office.



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#### VICINITY MAP

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PROPOSED ROAD CLUMBE

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STREET CLOSURE PLAT HINDMAN ROAD

#### LAND USE CONTROL BOARD RECOMMENDATION

At its regular meeting on *Thursday, September 9, 2021*, the Memphis and Shelby County Land Use Control Board held a public hearing on the following application:

CASE NUMBER: SAC 21-7

**LOCATION:** East-west public street immediately east of the intersection of the

east line of Henderson Street with the west line of Hindman Avenue

**COUNCIL DISTRICT(S):** District 7 and Super District 8 – Positions 1, 2, and 3

OWNER/APPLICANT: MIM LLC

**REPRESENTATIVE:** Dedrick Brittenum, Jr.

**REQUEST:** Close and vacate public right-of-way of an east-west public street

**EXISTING ZONING:** Residential Single-Family – 15 (R-15)

AREA: 0.099 acres

The following spoke in support of the application: None

The following spoke in opposition of the application: None

The Land Use Control Board reviewed the application and the staff report. A motion was made and seconded to recommend approval with conditions of the application.

The motion passed by a unanimous vote of 9-0 on the consent agenda.

Respectfully,

Clarke Shupe-Diggs Municipal Planner

Land Use and Development Services
Division of Planning and Development

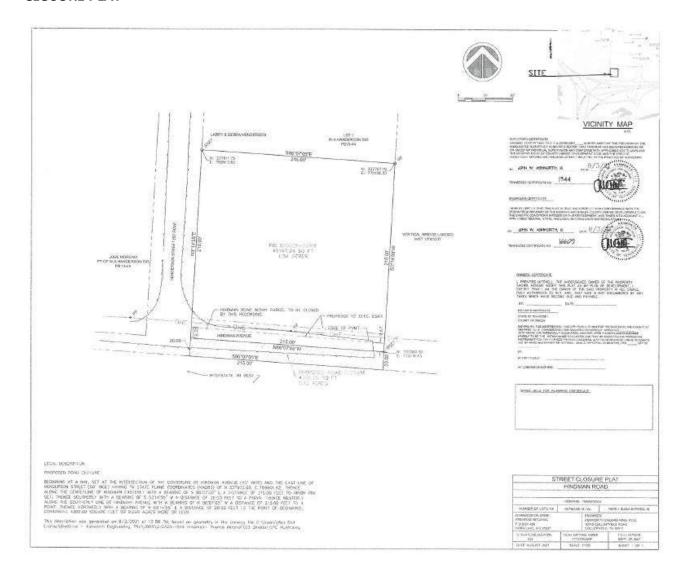
Cc: Committee Members

File

### SAC 21-7 CONDITIONS

- 1. Any existing sanitary sewers, drainage facilities, or other utilities shall be relocated at the applicant's expense or overlaid with an easement.
- 2. The applicant shall comply with all conditions of the closure within three years of the conditional approval of the closure by the Council of the City of Memphis.
- 3. If the owner of Tax Parcel 070028 00015 is able to sign the closure agreement within the three-year conditional approval time, that section of this street closure may be approved administratively through the submittal of a closure plat to the City of Memphis Real Estate Department.

#### **CLOSURE PLAT**





City Hall - 125 N. Main Street, Suite 468 - Memphis, Tennessee 38103 - (901) 636-6619

September 10, 2021

MIM LLC PO Box 488 Horn Lake, MS 38637

Sent via electronic mail to: MIMLLCMEMPHIS@GMAIL.COM

Case Number: SAC 21-7

LUCB Recommendation: Approval with conditions

Dear applicant,

On Thursday, September 9, 2021, the Memphis and Shelby County Land Use Control Board recommended *approval* of your right-of-way vacation application to close a portion of Hindman Avenue, east of Henderson Street, subject to the following conditions:

- 1. Any existing sanitary sewers, drainage facilities, or other utilities shall be relocated at the applicant's expense or overlaid with an easement.
- 2. The applicant shall comply with all conditions of the closure within three years of the conditional approval of the closure by the Council of the City of Memphis.
- 3. If the owner of Tax Parcel 070028 00015 is able to sign the closure agreement within the three-year conditional approval time, that section of this street closure may be approved administratively through the submittal of a closure plat to the City of Memphis Real Estate Department.

The application will be forwarded, for final action, to the Council of the City of Memphis. The Council will review your application in a committee meeting prior to voting on it in a public hearing. The applicant or the applicant's representative(s) shall be in attendance at all meetings and hearings.

It is the applicant's responsibility to contact the City Council Records Office to determine when the application is scheduled to be heard at committee and in public session. The City Council Records Office may be reached at (901) 636-6792.

If for some reason you choose to withdraw your application, a letter should be mailed to the Land Use and Development Services Department of the Division of Planning and Development at the address provided above or emailed to the address provided below.

## Letter to Applicant SAC 21-7

If you have questions regarding this matter, please feel free to contact me at (901) 636-6619 or via email at Clarke. Shupe. Diggs@memphistn.gov.

Respectfully,

Clarke Shupe-Diggs Municipal Planner Land Use and Development Services Division of Planning and Development

Cc: Dedrick Brittenum, Jr., Brittenum Law PLLC File

# dpd STAFF REPORT

**AGENDA ITEMS:** 13 & 17

**CASE NUMBER:** Z 2021-12 & SAC 2021-07 **L.U.C.B. MEETING:** September 9, 2021

**LOCATION:** Northeast corner of Hindman Avenue and Henderson Street

**COUNCIL DISTRICT:** District 7 and Super District 8 – Positions 1, 2, and 3

OWNER/APPLICANT: MIM LLC

**REPRESENTATIVE:** Dedrick Brittenum, Jr.

**REQUEST:** Rezoning of +/-1.037 acres from Residential Single-Family – 6 (R-6) to Commercial Mixed-

Use – 3 (CMU-3) and physical closure of a portion of Hindman Avenue, east of Henderson

Street

**AREA:** +/-1.037 acres

**EXISTING ZONING:** Residential Single-Family – 6 (R-6) and, for the existing right-of-way of Hindman Avenue,

Residential Single-Family – 15 (R-15)

#### **CONCLUSIONS**

1. The request is to rezone 1.04 acres from Residential Single-Family -6 (R-6) to Commercial Mixed-Use -3 (CMU-3) and to physically close a portion of Hindman Avenue, east of Henderson Street.

- 2. The subject property is currently vacant, and the underlying purpose of the rezoning request is to develop and improve the site for future commercial use.
- 3. This rezoning request is inconsistent with the Memphis 3.0 General Plan, which calls for the preservation and maintenance of the existing single-family housing stock present in the surrounding neighborhood. Additionally, the availability of adequate police services, fire services, school, road, park, wastewater treatment, water supply and storm water drainage facilities for the proposed zoning is limited. In view of these issues, Staff believes that an intensification of development at this location may adversely impact the quality of life in the surrounding neighborhood.
- 4. The applicant is further seeking to close and vacate right-of-way of a portion of Hindman Avenue, east of Henderson street. The subject right-of-way is mostly unimproved, terminating in a circular dead end.
- 5. Staff finds the request to rezone the subject property from R-6 to CMU-3 is an inappropriate zoning district for the area that is incompatible with the surrounding land uses. However, staff agrees that the closure of the adjacent subject right-of-way would not have any undue or substantial effect upon the existing vehicular and pedestrian traffic flow of the surrounding area.

#### **CONSISTENCY WITH MEMPHIS 3.0**

This proposal is inconsistent with the Memphis 3.0 General Plan per the land use decision criteria. See further analysis on pages 13-14 of this report.

#### **RECOMMENDATION**

Rejection of CMU-3
Approval of OG

Approval of the Physical Closure of Hindman Avenue with Conditions

Staff Writer: Clarke Shupe-Diggs E-mail: Clarke.Shupe.Diggs@memphistn.gov

 Staff Report
 September 9, 2021

 Z 2021-12 & SAC 2021-07
 Page 2

#### **GENERAL INFORMATION**

Street Frontage: Henderson Street +/-166.8 linear feet

**Zoning Atlas Page:** 1830

Parcel ID: 070028 00016

**Existing Zoning:** Residential Single-Family – 6 (R-6) and Residential Single-Family – 15 (R-15)

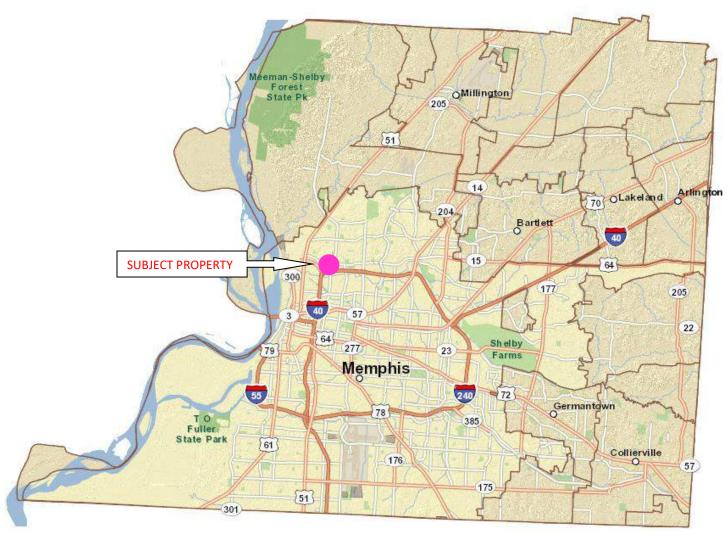
#### **NEIGHBORHOOD MEETING**

The meeting was held at 12:00 PM on Wednesday, August 25, 2021, at the intersection of Hindman Avenue and Henderson Street.

#### **PUBLIC NOTICE**

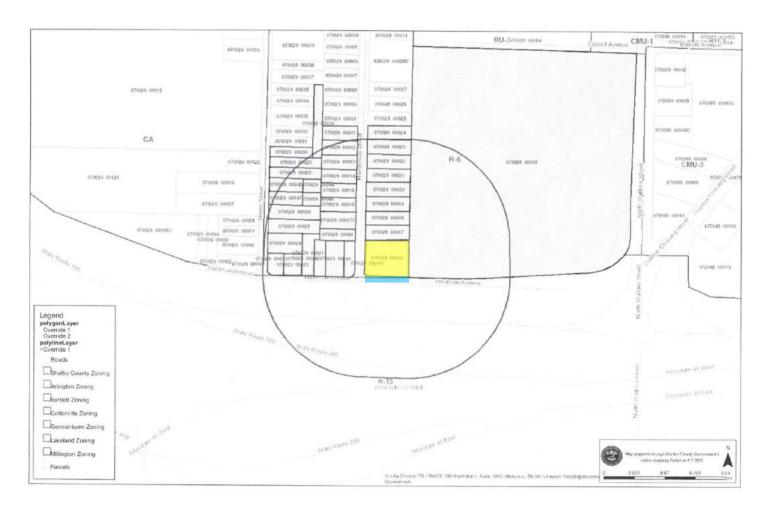
In accordance with Sub-Section 9.3.4A of the Unified Development Code, a notice of public hearing is required to be mailed and signs posted. A total of 59 notices (34 notices for Z 21-12; 25 notices for SAC 21-7) were mailed on August 27, 2021, a total of 1 sign was posted at the subject property, and a total of 1 sign was posted on the end of the right-of-way to be closed and vacated. The sign affidavits have been added to this report.

#### **LOCATION MAP**



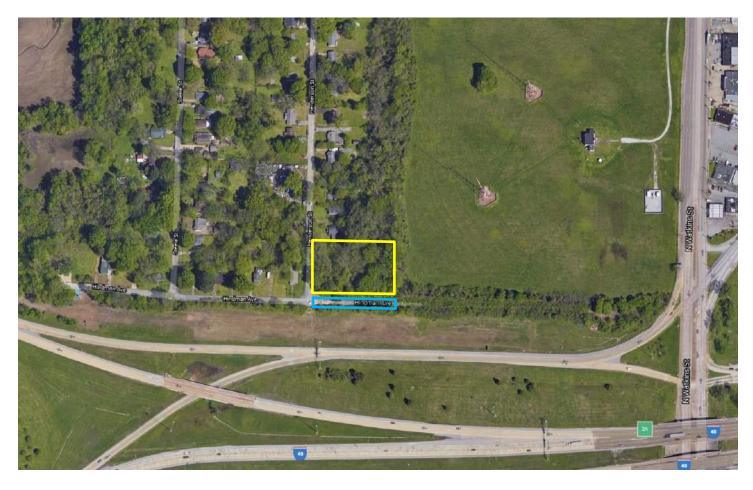
Subject property located within the pink circle, Frayser neighborhood

#### **VICINITY MAP**



Subject property highlighted in yellow; subject right-of-way highlighted in blue

#### **AERIAL**



Subject property outlined in yellow; subject right-of-way highlighted in blue

#### **ZONING MAP**



Subject property highlighted in yellow; subject right-of-way highlighted in blue

**Existing Zoning:** Residential Single-Family – 6 (R-6) and Residential Single-Family – 15 (R-15)

#### **Surrounding Zoning**

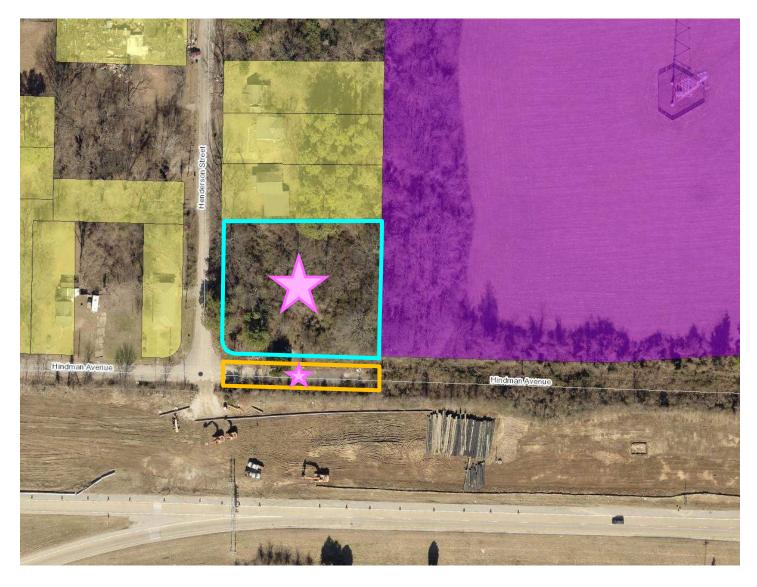
North: R-6

East: R-6

South: R-15

West: R-6 and R-15

#### **LAND USE MAP**



Subject property outlined in electric blue and indicated by pink star; subject right-of-way outlined in orange and indicated by pink star

#### **SITE PHOTOS**



View of subject property from Henderson Street, looking north

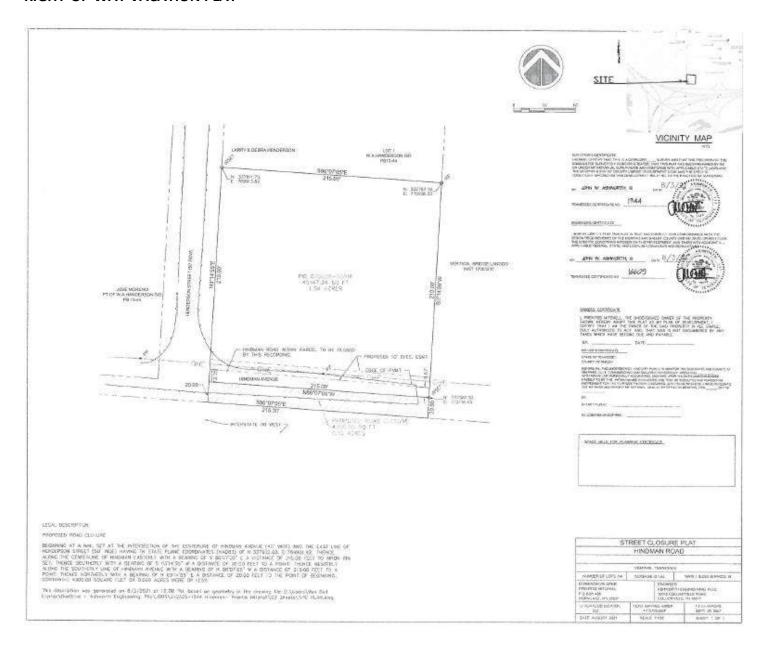


View of subject property from Henderson Street, looking southeast



View of subject right-of-way from Henderson Street, looking east

#### **RIGHT-OF-WAY VACATION PLAT**



Staff Report Z 2021-12 & SAC 2021-07 September 9, 2021 Page 11

#### (HINDMAN AVENUE) LEGAL DESCRIPTION

LEGAL DESCRIPTION

PID 070028-00016

BEGINNING AT A NAIL SET AT THE INTERSECTION OF THE EAST LINE OF HENDERSON STREET (50' WIDE) AND THE CENTERLINE OF HINDMAN AVENUE (40' WIDE) HAVING TN STATE PLANE COORDINATES (NAD83) OF N:337602.08, E:769901.92; THENCE NORTHERLY ALONG THE EAST LINE OF HENDERSON ST. WITH A BEARING OF N 03°14'55" E A DISTANCE OF 210.00 FEET TO AN IRON ROD SET AT THE SOUTHWEST CORNER OF LARRY & DEBRA HENDERSON TRACT; THENCE ALONG THE SOUTHERLY LINE OF SAID HENDERSON TRACT EASTERLY WITH A BEARING OF S 86°07'05" E A DISTANCE OF 215.00 FEET TO A IRF; THENCE ALONG THE WESTERLY LINE OF VERTICAL BRIDGE LANDCO TRACT SOUTHERLY WITH A BEARING OF S 03°14'55" W A DISTANCE OF 210.00 FEET TO AN IRON ROD SET; THENCE ALONG THE CENTER OF HINDMAN AVENUE WESTERLY WITH A BEARING OF N 86°07'05" W A DISTANCE OF 215.00 FEET TO THE POINT OF BEGINNING.; CONTAINING 45147.24 SQUARE FEET OR 1.036 ACRES MORE OR LESS.

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#### STAFF ANALYSIS

#### Request

The application and letter of intent have been added to this report.

The request is to rezone 1.04 acres from Residential Single-Family – 6 (R-6) to Commercial Mixed-Use – 3 (CMU-3) and physical closure of a portion of Hindman Avenue, east of Henderson Street.

#### **Review Criteria**

Staff disagrees the review criteria as set out in Sub-Section 9.5.7B of the Unified Development Code are met.

#### 9.5.7B Review Criteria

In making recommendations, the Land Use Control Board shall consider the following matters:

- 9.5.7B(1) Consistency with any plans to be considered (see Chapter 1.9);
- 9.5.7B(2) Compatibility with the present zoning (including any residential corridor overlay district) and conforming uses of nearby property and with the character of the neighborhood;
- 9.5.7B(3) Suitability of the subject property for uses permitted by the current versus the proposed district;
- 9.5.7B(4) Whether the proposed change tends to improve the balance of uses, or meets a specific demand in the City or County; and
- 9.5.7B(5) The availability of adequate police services, fire services, school, road, park, wastewater treatment, water supply and storm water drainage facilities for the proposed zoning.

#### **Site Description**

The subject property is +/-1.037 acres located on the east side of Henderson Street. The site is currently zoned Residential Single-Family – 6 and it is vacant land. The surrounding land uses are a mixture of vacant land, single-family residential, and industrial. There is no curb and gutter along the site's Henderson Street frontage.

The subject right-of-way is a +/-40-foot wide and +/-215-foot long east-west public alley for a total area of +/-1.063 acres that starts at Henderson Street and dead ends east of North Watkins Street. The subject right-of-way is located in-between two parcels, one of which is owned by the applicant (070028 00016), the other owned by Vertical Bridge Landco LLC (070028 00015).

#### **Consistency with Memphis 3.0**

Staff uses the following criteria contained in Memphis 3.0 to determine consistency.

- 1. The future land use planning map: The subject site is identified as **Primarily Single-Unit Neighborhood** (AN-S) in the future land use planning map.
- 2. The land use category descriptions and graphic portrayals, including whether the proposed use is compatible with the zone districts listed in the zoning notes and the proposed building(s) fit the listed form and location characteristics:

**NS** areas are located greater than a half-mile outside of any anchor destination. These neighborhoods contain mostly detached, house scale residences, serving mostly single-family style living. This is considered the typical suburban community that is not as walkable or accessible from an anchor.

#### "NS" Goals/Objectives:

Preservation/maintenance of existing singlefamily housing stock and neighborhoods

#### "NS" Zoning Notes:

Generally compatible with the following zoning

districts: R-E, R-15, R-10, R-8, R-6 in accordance with Form and characteristics listed below. Consult zoning map and applicable overlays for current and effective regulations. Changes unlikely; may consider rezonings, as appropriate, at the time of a small area plan.

#### "NS" Form & Location Characteristics:

- Primarily detached
- House-scale buildings
- Primarily residential
- 1-3 stories
- Beyond 1/2 mile from a Community Anchor

The proposed zoning district does meet these criteria because many of the commercial uses permitted by right in the CMU-3 district would interpose high intensity development within an otherwise low intensity, residential area.

3. Existing, adjacent land uses and zoning: The subject site is surrounded by the following land uses: single-family residential and industrial. The subject site is surrounded by the following zoning districts: R-6 and R-15. The commercial land uses permitted under the proposed zoning are incompatible with these adjacent land uses and zoning districts because they differ significantly in intensity (the proposed uses are more intense than the existing permitted uses).



- 4. *The degree of change map:* The subject site is undesignated in the Degree of Change map.
- 5. The degree of change descriptions: The Degree of Change descriptions are not applicable to this request.

Based on the land use decision criteria, this proposal is *inconsistent* with the Memphis 3.0 General Plan.



#### **Conclusions**

The request is to rezone 1.04 acres from Residential Single-Family -6 (R-6) to Commercial Mixed-Use -3 (CMU-3) and to physically close a portion of Hindman Avenue, east of Henderson Street.

The subject property is currently vacant, and the underlying purpose of the rezoning request is to develop and improve the site for future commercial use. The commercial mixed-use districts are generally intended to accommodate retail, service and commercial uses. The CMU-3 district accommodates a broad range of high intensity commercial, office, and employment uses that service through traffic as well as surrounding neighborhoods. The subject property fronts a residential street that is unimproved by curb and gutter, and is surrounded by a mixture of vacant land and single-family residential land uses.

This rezoning request is inconsistent with the Memphis 3.0 General Plan, which calls for the preservation and maintenance of the existing single-family housing stock present in the surrounding neighborhood. Additionally, the availability of adequate police services, fire services, school, road, park, wastewater treatment, water supply and storm water drainage facilities for the proposed zoning is limited. In view of these issues, Staff believes that an intensification of development at this location may adversely impact the quality of life in the surrounding neighborhood.

The applicant is further seeking to close and vacate right-of-way of a portion of Hindman Avenue, east of Henderson street. The subject right-of-way is mostly unimproved, terminating in a circular dead end. The City Engineer would prefer that the entire section of Hindman Avenue, which begins at Henderson street and terminates approximately 870 feet to the east, is closed. However, the applicant does not intend to close any portion of Hindman Avenue extending beyond the easternmost boundary of the adjacent land parcel they currently own (Parcel 070028 00016).

Staff finds the request to rezone the subject property from R-6 to CMU-3 is an inappropriate zoning district for the area that is incompatible with the surrounding land uses. However, staff agrees that the closure of the adjacent subject right-of-way would not have any undue or substantial effect upon the existing vehicular and pedestrian traffic flow of the surrounding area.

#### RECOMMENDATION

Staff recommends rejection of Commercial Mixed-Use – 3 (CMU-3). However, if approved, staff recommends approval of Office General (OG).

Staff recommends approval of the physical closure of Hindman Avenue, with the following conditions:

#### **SAC 21-7 Conditions**

- 1. Any existing sanitary sewers, drainage facilities, or other utilities shall be relocated at the applicant's expense or overlaid with an easement.
- 2. The applicant shall comply with all conditions of the closure within three years of the conditional approval of the closure by the Council of the City of Memphis.
- 3. If the owner of Tax Parcel 070028 00015 is able to sign the closure agreement within the three-year conditional approval time, that section of this street closure may be approved administratively through the submittal of a closure plat to the City of Memphis Real Estate Department.

#### **DEPARTMENTAL COMMENTS**

The following comments were provided by agencies to which this application was referred:

#### **City/County Engineer:**

CASE: **Z-21-012** 

NAME: Re-zone 1.04-acre lot from R6 to CMU-3

#### Sewers:

1. City sanitary sewers are available to serve this development.

CASE: **SAC-21-007** 

NAME: Hindman Avenue Closure

1. Standard Subdivision Contract or Right-Of-Way Permit as required in Section 5.5.5 of the Unified Development Code.

#### Roads:

- 2. The Developer shall be responsible for the repair and/or replacement of all existing curb and gutter along the frontage of this site as necessary.
- 3. All existing sidewalks and curb openings along the frontage of this site shall be inspected for ADA compliance. The developer shall be responsible for any reconstruction or repair necessary to meet City standards.

#### **Traffic Control Provisions:**

4. The developer shall provide a traffic control plan to the city engineer that shows the phasing for each street frontage during demolition and construction of curb gutter and sidewalk. Upon completion of

sidewalk and curb and gutter improvements, a minimum 5-foot-wide pedestrian pathway shall be provided throughout the remainder of the project. In the event that the existing right of way width does not allow for a 5-foot clear pedestrian path, an exception may be considered.

- 5. Any closure of the right of way shall be time limited to the active demolition and construction of sidewalks and curb and gutter. Continuous unwarranted closure of the right of way shall not be allowed for the duration of the project. The developer shall provide on the traffic control plan, the time needed per phase to complete that portion of the work. Time limits will begin on the day of closure and will be monitored by the Engineering construction inspectors on the job.
- 6. The developer's engineer shall submit a Trip Generation Report that documents the proposed land use, scope and anticipated traffic demand associated with the proposed development. A detailed Traffic Impact Study will be required when the accepted Trip Generation Report indicates that the number for projected trips meets or exceeds the criteria listed in Section 210-Traffic Impact Policy for Land Development of the City of Memphis Division of Engineering Design and Policy Review Manual. Any required Traffic Impact Study will need to be formally approved by the City of Memphis, Traffic Engineering Department.

#### **Curb Cuts/Access:**

7. The City Engineer shall approve the design, number and location of curb cuts.

#### **Street Closures:**

- 8. Provide easements for existing sanitary sewers, drainage facilities and other utilities or relocate at developer's expense.
- 9. The applicant shall provide for the construction of curb, gutter and sidewalk across the closure as required by the City Engineer. If the City Engineer approves access, the applicant shall construct a City Standard curb cut across the closure, all to the satisfaction of the City Engineer, and at the applicant's expense. The applicant shall enter into a Standard Improvement Contract or obtain a curb cut permit from the City Engineer to cover the above required construction work.
- 10. The applicant shall comply with all conditions of the closure within 3 years of the conditional approval of the closure by the City Council.

**City/County Fire Division:** No comments received.

**City Real Estate:** No comments received.

City/County Health Department: No comments received.

**Shelby County Schools:** No comments received.

**Construction Code Enforcement:** No comments received.

Memphis Light, Gas and Water:

CASE: **SAC-21-007** 

NAME: Hindman Avenue Closure

MLGW has reviewed the referenced application, and has <u>no objection</u>, **subject to** the following conditions:

- MLGW has existing utility distribution facilities within the present public road/alley right of way.
   The City of Memphis shall retain an easement across the proposed street closure, from edge to edge of the road right of way, to accommodate any existing public utilities, including electric, gas, water, CATV, telephone, sewer, drainage, etc.
- It is the responsibility of the owner/applicant to bear the cost if it is necessary for MLGW facilities to be installed, removed or relocated.
- MLGW reserves the right to retain a utility right-of-way within that portion of the existing public road right of way at all times for existing utilities, or the owner/applicant may choose to relocate existing utilities at the expense of the owner/applicant.
- MLGW must be able to access any overhead or underground facilities. Consequently, no permanent structure(s) shall be constructed or erected within that portion of the existing public road right of way including fences, buildings, patios, vehicle parking or paving.
- **No permanent structures, development or improvements** are allowed within any utility easements, without prior MLGW written approval.
- Underground Utility separation and clearance: The subject property is encumbered by existing
  utilities which may include overhead and underground facilities. It is the responsibility of the
  owner/applicant to maintain a minimum 3-foot (3') separation between any existing underground
  service lines or utilities and any proposed permanent structure or facility. This separation is necessary
  to provide sufficient space for any excavations to perform service, maintenance or replacement of
  existing utilities.
- If there are **existing fire hydrants** within the proposed closure of the public right-of-way, these hydrants will become public hydrants on private property, and the owner/applicant will be billed an annual maintenance fee on a monthly basis by MLGW.
- If there are **existing street lights** within the proposed closure of the public right-of-way, MLGW will remove all street lights, and abandon underground electric feeds or remove overhead electric feeds at the expense of the owner/applicant.
- STREET NAMES: It is the responsibility of the owner/applicant to contact MLGW-Address
  Assignment @ 729-8628 and submit proposed street names for review and approval. Please use the
  following link to the MLGW Land & Mapping website for Street Naming Guidelines and the Online
  Street Name Search: http://www.mlgw.com/builders/landandmapping
- It is the responsibility of the owner/applicant to identify any utility easements, whether dedicated or prescriptive (electric, gas, water, CATV, telephone, sewer, drainage, etc.), which may encumber the subject property, including underground and overhead facilities. No permanent structures will be allowed within any utility easements.
- It is the responsibility of the owner/applicant to contact TN-1-CALL @ 1.800.351.1111, before digging, and to determine the location of any underground utilities including electric, gas, water, CATV, telephone, etc.

- It is the responsibility of the owner/applicant to contact MLGW-Property Management, Land Rights Specialist @ 901-528-4186 to request a Release Deed for release of easement for any existing MLGW Easement(s) in conflict with the proposed development.
- It is the responsibility of the owner/applicant to pay the cost of any work performed by MLGW to install, remove or relocate any facilities to accommodate the proposed development.
- It is the responsibility of the owner/applicant to identify any utility easements, whether dedicated or prescriptive (electric, gas, water, CATV, telephone, sewer, drainage, etc.), which may encumber the subject property, including underground and overhead facilities. No permanent structures will be allowed within any utility easements.
- It is the responsibility of the owner/applicant to comply with the National Electric Safety Code (NESC) and maintain minimum horizontal/vertical clearances between existing overhead electric facilities and any proposed structures.
- It is the responsibility of the owner/applicant to comply with Memphis/Shelby County Zoning Ordinance- Landscape and Screening Regulations.
- Street Trees are prohibited, subject to the review and approval of the landscape plan by MLGW Engineering. It is the responsibility of the owner/applicant to submit a detailed landscape plan to MLGW Engineering.
- Landscaping is prohibited within any MLGW utility easement without prior MLGW approval.
- It is the responsibility of the owner/applicant to submit a detailed plan to MLGW Engineering for the purposes of determining the availability and capacity of existing utility services to serve any proposed or future development(s).
- Fire Protection Water Services: It is the responsibility of the owner/applicant to contact MLGW Water Engineering @ 901-528-4720 to obtain fire protection/water flow information. If water main
  extensions and/or an increase in existing main sizes are needed to meet the minimum fire flow rate
  to serve the proposed development, the owner/applicant will be responsible for the cost of these
  improvements.
  - Please refer to MLGW Service Policy Manual Water Main Extensions, Section 4.3 which is available online at the following MLGW website:
  - http://www.mlgw.com/images/content/files/pdf/ServicePolicyManual.pdf
- It is the responsibility of the owner/applicant to submit a detailed plan to MLGW Engineering for the purposes of determining the availability and capacity of existing utility services to serve any proposed or future development(s). Application for utility service is necessary before plats can be recorded.
  - All residential developers must contact MLGW's Residential Engineer at Builder Services: (901)729-8675 to initiate the utility application process.
  - All commercial developers must contact MLGW's Builder Services line at 729-8630 (select option 2) to initiate the utility application process.
- It is the responsibility of the owner/applicant to pay the cost of any utility system improvements necessary to serve the proposed development with electric, gas or water utilities.

Staff Report Z 2021-12 & SAC 2021-07 September 9, 2021 Page 19

Office of Sustainability and Resilience: No comments received.

#### **APPLICATION**



# Memphis and Shelby County Office of Planning and Development CITY HALL 125 NORTH MAIN STREET-SUITE 468 MEMPHIS, TENNESSEE 38103-2084 (901) 576-6601

#### APPLICATION FOR REZONING APPROVAL

Date: 8/3/21		Case #: <b>Z</b>				
PLEASE TYPE OR PRINT						
D		DI	201 205 5000			
		2000000 TOURS - 200000000 TOURS - 200000000000000000000000000000000000	901-305-5000			
Mailing Address: PO BOX 488		City/State: HORN LAKE, MS	Zip <u>38637</u>			
Property Owner E-Mail Address: MIML	_CMEMPHIS@GMAIL.COM					
Applicant: MIM LLC		Phone # _	Phone #			
Mailing Address:		City/State:	Zip			
Applicant E- Mail Address:						
Representative: Dedrick Brittenum, Jr.		Phone #: 9	Phone #: 901-552-5994			
Mailing Address: 3385 Airways Blvd, Ste 225	)	City/State: Memphis, tn	Zip <u>38116</u>			
Representative E-Mail Address: db@brit	tenumlaw.com					
		Phone #90	Phone #901-414-8767			
Mailing Address: 10815 Collierville Road						
			#.			
	Northeast corner of Hindman	and Henderson				
planting to hearest merseeing street.						
	D	D 10				
Area in Acres:		Parcel 2 Pa	rcel 3			
	R6	· · · · · · · · · · · · · · · · · · ·				
	Vacant	· ·				
Requested Zoning	CMU-3					
Pre-Application Conference held on:	07/30/2021 with	Burk Renner				
Neighborhood Meeting Requirement	Met: Yes or 1	Not Yet or Not Required (se	e below)			
	(II yes, docume	entation must be included with	application materials)			
I (wa) harehy make application	for the rezening	alassification described	abaya and an the			
result in the postnenoment of the	accept responsible	my for any errors or on	Scholby County			
property nereby authorize the ming	or this application an	d the above named persons to	act on my benaif.			
MTM 11C	08/05/2021	A MATUR	08/05/2021			
Property Owner of Record		licant	2500			
Existing Use of Property Requested Use of Property Requested Zoning  Pre-Application Conference held on:  O7/30/2021 with Burk Renner  Neighborhood Meeting Requirement Met:  Yes or Not Yet or Not Required (see below)  (If yes, documentation must be included with application materials)  I (we) hereby make application for the rezoning classification described above and on the accompanying materials. I (we) accept responsibility for any errors or omissions which may result in the postponement of the application being reviewed by the Memphis & Shelby County Land Use Control Board at the next available hearing date. I (We), owner(s) of the above described property hereby authorize the filing of this application and the above named persons to act on my behalf.						

#### LETTER OF INTENT



Law plle

ATTORNEY AT LAW
Airways Professional Center — Aerotropolis
3385 Airways Boulevard, Suite 229
Memphis, Tennessee 38116 USA
Telephone 901.347.3978
Facsimile 901.800.1927
db/abrittemanlaw.com

5 August 2021

Via Hand Delivery

Josh Whitchead, AICP
Planning Director / Administrator
Memphis & Shelby County Office of Planning and Development
City Hall
125 North Main Street, Suite 468
Memphis, TN 38103

RE: 0 Hindman Avenue - Application for Rezoning Approval

Hindman Avenue Section - Application for Street Closure Approval

#### Dear Administrator Whitehead:

I represent MIM LLC for rezoning and street closure applications to redevelop the above tract for Commercial Mixed Use-3 zoning district (CMU-3) use. The subject property is currently zoned R-6 with no overlay district. The applications request approval of the CMU-3 zoning district and the closure of the section of Hindman Avenue adjacent to the requested rezoning parcel on the south. Although the large tract due east is zoned R-6, it is showing on the zoning map legend as industrial use. Upon approval, the Hindman parcel and the closed Hindman Avenue section will be one lot located adjacent to I-40 west. Enclosed are the Application for Rezoning Approval and the Applications for Right-of-Way Vacation/ Street/Alley/Closure Approval. Please consider these applications as companion cases.

The 0 Hindman Avenue parcel was sold at tax sale to the Shelby County Land Bank in January 2020. It was sold to the Applicant here as the highest bidder upon confirmation by the Shelby County Commission in February 2021 for future development. The subject parcel is vacant land. The closure of the section of Hindman Avenue currently used for illegal dumping of furniture, tires, trash and other debris will reduce blight in the area.

Thank you for your attention and should you have questions or comments, please advise.

I remain,

Dedrick Brittenum, Jr.

enclosure

#### **SIGN AFFIDAVITS**

AFFIDAVIT

Shelby County	
State of Tennessee	
1, Rentiss Mitchell, being duly sworm	n, depose and say that at / a
on the 20 day of Hugust , 20	2 / , I posted _ / Public Notice S.
pertaining to Case No. 22021-12at D A	
providing notice of a Public Hearing before	theLand Use Control E
Memphis City Council,Shelby	County Board of Commissioner
consideration of a proposed Land Use	Action (Planned Develop
Special Use Permit,Zoning Di	istrict Map Amendment,
and/or Alley Closure), a photograph of said sign	
the sign purchase receipt or rental contract atta-	iched hereto.
Jacouter Metall	9/20/202
Owner, Applicant or Representative	Date
Owner, Applicant of Representative	Date
Subscribed and sworn to before me this	day of As 1886 200
Subscribed and sworm to before the this 20	_day of 7605157, 200
1-50	
	-
Notary Public	
	OF MISSIS
My commission expires: 05/05/2022	To SOMICHAL CO.
7 - 6	O NOTARY PUBLIC TO
	DNo. 123210 O
	March 05, 2022
	0.
	5010 CON

AFFIDAVIT

	\$500 SEC 1200 SE
	Sheiliny County
	State of Tennessee
	I. Hentiss Mitchell being duly swom, depose and say that at amon on the 20 day of August, 2021 , I posted Public Notice Sign(s, pertaining to Case No. SAC 21-07 at O Hind man Rd , MPMS TN
	providing netice of a Public Hearing before the Land Use Control Board Memphis City Council, Shelby County Board of Commissioners fo consideration of a proposed Land Use Action (Planned Development Special Use Permit, Zoning District Map Amendment, Stree and/or Alley Closure), a photograph of said sign(s) being attached hereon and a copy o
	the sign purchase receipt or rental contract attached hereto.
_	- Trouten Mitchell 8/20/202
	Owner, Applicant or Representative Date
	Subscribed and sworn to before me this 20 Hy day of August, 2021.
	Notary Public
	My cemmissien expires: 05/05/0024
	· · · · · · · · · · · · · · · · · · ·





Staff Report Z 2021-12 & SAC 2021-07 September 9, 2021 Page 23

#### **LETTERS RECEIVED**

One letter of opposition was received at the time of completion of this report and has subsequently been attached.

#### Frayser/Hindman Ave proposal

#### Tess Momberger <etmomberger42@gmail.com>

Thu 9/2/2021 9:48 PM

To: Shupe-Diggs, Clarke < Clarke. Shupe. Diggs@memphistn.gov>

CAUTION: This email originated outside of the City of Memphis organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

\_\_\_\_\_

Hello,

I am a resident of Henderson Street, which runs perpendicular to Hindman avenue. I have concerns with the rezoning of this one acre parcel of land since the whole of the area surrounding it is zoned residential. As a resident of this area, I am concerned with the rezoning without having any idea as to what will be the use of this land, or how the rezoning of this acre will affect the rezoning of other parcels of land in the future. Henderson and Hindman as well and quiet street as well as nearby Steele and Ontario streets. I have concern for commercial properties/ billboards/more cell-radio towers beginning to form in this residential neighborhood.

- Tess

## **Brittenum**

Law pllc

ATTORNEY AT LAW

Airways Professional Center - Aerotropolis
3385 Airways Boulevard, Suite 229

Memphis, Tennessee 38116 USA

Telephone 901.347.3978

Facsimile 901.800.1927

db@brittenunlaw.com

5 August 2021

Via Hand Delivery

Josh Whitehead, AICP
Planning Director / Administrator
Memphis & Shelby County Office of Planning and Development
City Hall
125 North Main Street, Suite 468
Memphis, TN 38103

RE: 0 Hindman Avenue - Application for Rezoning Approval

Hindman Avenue Section - Application for Street Closure Approval

#### Dear Administrator Whitehead:

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Street/Alley/Closure Approval. Please consider these applications as companion cases.

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Thank you for your attention and should you have questions or comments, please advise. I remain,

Dedrick Brittenum, Jr.

Very truly yours,

enclosure



# Memphis and Shelby County Office of Planning and Development CITY HALL 125 NORTH MAIN STREET, SUITE 476, MEMPHIS, TENNESSEE 38103-2084 (901) 363-6619

#### APPLICATION FOR RIGHT-OF-WAY VACATION/ STREET/ALLEY/CLOSURE APPROVAL

< N

Date: 8/3/21	Case #:					
PLEASE TYPE OR PRINT						
Name of/Street/Alley/ROW: HINDMAN AVENUE						
Property Owner of Record: MIM LLC	Phone #:9013055000					
PO BOX 488	CL IN HODNIAKE TO 38637					
Property Owner E-Mail Address:mimllcmemphis@gmail.com MS						
	Phone #					
Mailing Address:	City/State:	Zip				
Applicant E- Mail Address:  Dedrick Brittenum, Jr.		901-552-5994				
Representative: Dedrick Brittenum, Jr.  Mailing Address: 3385 Airways Blvd, Ste 229	Phone #:Phone #:	38116				
Representative E-Mail Address: db@brittenumlaw.com		P				
Engineer/Surveyor. WES ASHWORTH	Phone #	9014148767				
Mailing Address: 10815 COLLIERVILLE RD	City/Sta COLLIERVILLE	E.TN Zip 38017				
Engineer/Surveyor E-Mail Addre WESLEY@ASHWORTHENGINEERING.COM						
Closure Street Address Location: 0 HINDMAN- NW CO	RNER HINDMAN AND HE	ENDERSON ST.				
Inside of Memphis City Limits	Xyes No					
Unincorporated Shelby County	Yes No					
City of Reserve Area	Yes No					
Distance to nearest intersecting street: NW CORNER HI	NDMAN AND HENDERSC	N ST.				
Area of ROW: 4300SF/0.1 AC  Closure starts at: EAST LINE OF HENDERSON S  Proceeds to EAST LINE OF PARCEL 070028  Reason for Closure: _ ROAD NOT IN USE AND COLLE  DANGER TO NEIGHBORHOOD  UNDESIRABLES.	800016 ECTS RUBISH AND DEBF					

**PRE-APPLICATION CONFERENCE** - Not more than six (6) months nor less than five (5) working days prior to filing an application, the applicant shall arrange for a mandatory pre-application conference with OPD.

I (we) hereby make application for approval of the street/alley closure described above and on the accompanying materials and closure plat. I (we) accept responsibility for any errors or omissions which

Pre-Application Conference held on: 07/30/2021 with BUTK Repner

Use Control Board at the next avail	lable hearing da	cing reviewed by the Memphis & Sh nte. I (We), owner(s) of the above d e above named persons to act on my l	lescribed property
		Applicant Milchell	08/05/2021 Date
Property Owner of Record*	Date	Applicant	Date
Property Owner of Record*	Date	Applicant	Date
Property Owner of Record*	Date	Applicant	Date
Property Owner of Record*	Date	Applicant	Date

Every property owner that both abuts the right-of-way to be closed and will be deeded a respective portion shall sign this application unless the signee above is a duly elected representative of a homeowners or property owners association that will be taking ownership of the vacated right of way. See Item H at the bottom of this application for further instructions and exceptions.

## Types of Vacation (from Chapter 9.8 of the Unified Development Code)

- 1. Conversions (public-to-private street conversions, pursuant to Section 5.2.18 of the UDC)
  - Note: street conversions entirely within approved subdivisions or planned developments shall be processed as revisions to the subdivision plat or planned development plat. Please refer to those appropriate applications.
- 2. Physical closures (street and alley closures that involve the physical closure of an existing street or alley)
- 3. Abandonment (divesture of abandoned or excess right-of-way, paper streets, paper alleys and easements)

SIGN POSTING – A sign or signs shall be erected on-site no more than 30 days or less than 10 days prior to the date of the Land Use Control Board hearing. See Sub-Section 9.3.4C of the UDC for further details on sign posting.

## GUIDE FOR SUBMITTING RIGHT-OF-WAY VACATION/CLOSURE APPLICATION

- A <u>THE APPLICATION</u> Two (2) collated sets of this application in accordance with the requirements of the Unified Development Code and as outlined below shall be submitted to OPD. The following information is required to be submitted for consideration as a complete application, and except for copies of the preliminary closure plat, shall be provided on sheets of 8.5"x11" in size. The application with original signatures of the applicant and adjacent property owners to the street or alley to be closed shall be completed either with legible print or typewritten. Each application set shall be compiled in the following order:
  - This application, 8.5"x11" Preliminary Closure Plat, Metes & Bounds Descriptions, Vicinity Maps, Property Deeds & Easements of Record, 2-3 sets of gummed-backed Mailing Labels, 2 sets of paper copied Mailing Labels, Letter of Intent, 20"x24" Preliminary Closure Plat (folded), Original Instrument of Dedication.
  - 2) A compact disc with all submittal documents in "PDF" and any proposed conditions in "WORD".

## B METES AND BOUNDS DESCRIPTION

Two (2) copies of a metes and bounds description of the right-of-way to be closed, and four (4) copies of metes & bounds descriptions of those portions of the right-of-way which are to be quit claimed to adjacent property owners. Descriptions must read to the centerline unless the properties on either side of the right-of-way are under the same ownership.

## **CLOSURE PLAT\***

- Two (2) prints 20" x 24", two (2) 8.5" x 11" reduced copies of the closure plat drawn to scale (1"=50' or =100') and prepared, certified and sealed by a Civil Engineer or Surveyor registered in the State of Tennessee. The plat must show the names of abutting property owners, all bearings and dimensions of the alley or street, dimensions and legal descriptions of abutting lots, existing buildings on adjacent lots, driveways, utilities, easements to be retained and a vicinity map.
  - \*A closure plat is unnecessary for Street Closure Example 4 (see Pine Street Closure below).

### VICINITY MAP

D Two (2) copies showing the subject property (boldly outlined) and all parcels adjacent to the section of the street or alley being closed. Show for each parcel its dimensions, owner's name (on the vicinity map unless prior approval is given to do otherwise) and the public streets, alleys or private drives that it abuts. In situations where the parcels on the map are so small that the property owner's names are unable to fit and numbered legend is used, every effort should be made to place the legend on the map itself and not a separate sheet.

### E LIST OF NAMES AND ADDRESSES

- 1) Two (2) complete lists of names and mailing addresses, including zip codes, of all owners shown on the vicinity map, typewritten on 1"x  $2^{5/8}$ " self-adhesive mailing labels and 2 paper sets. Three (3) sets of gummed back mailing labels and paper copies are needed for subject properties located in Shelby County but within five (5) miles of the Memphis City limits.
- 2) Two (2) self-adhesive mailing labels (1"x 2<sup>5/8</sup>") each for the owner of record, applicant, representative and/or engineer/surveyor.

## DEDICATION INSTRUMENT

- F A copy of the instrument which dedicated the right-of-way for public use must be submitted with the application.
  - \*A dedication instrument is unnecessary for Street Closure Example 4 (see Pine Street Closure below).

- G <u>FILING FEES</u> (All Fees Are Subject To Change without Prior Notice)
  Submit a non-refundable check or money order in the amount of \$400.00. Make check payable to "M/SC Office of Planning and Development"
- H. **SIGNATURES** (from Section 9.8.2 of the Unified Development Code)

The official application form shall include the signatures of all abutting property owners. If any abutting property owners refuse to sign the application, the governing body may delete that portion of the right-way if they so choose. Abutting property owners are those owners who will be recipients of all or a portion of the right-of-way proposed to be vacated and are the owners of record at the time the right-of-way vacation application is filed with the Planning Director. To qualify as a recipient of all or a portion of former right-of-way, an abutting property owner's parcel must be identified on the subdivision plat or Planned Development final plan through which the right-of-way proposed for vacation was originally dedicated to the City or County and that parcel must abut the right-of-way proposed for vacation. See graphics below for explanation. Note: After an application has been filed with the Planning Director, the withdrawal of consent to the closure by an abutting property owner is prohibited.

## TYPES OF STREET CLOSURES

Example 1: Oak Street Closure.

Oak Street is a paper street that was never constructed. It is now strewn with weeds and undergrowth and the abutting owners now wish to take the area over and make it part of their rear yards. Oak Street was dedicated to the public with the recording of Oak Street Subdivision. This portion of Oak Street is abutted by Lots 1-14 of Oak Street Subdivision. Owners of Lots 1-14 will be required to sign off the application and be deeded their half of the street, unless the governing bodies approve the closure specifically allotting their half of the street to another property owner who has signed the application.

LOT 1	LOT 2	LOT 3	LOT 4	1015	LOT 6	1017
		OAK STI	REET (PUBL	IC)		
						LOT 8

LOT 1	LOT 2	LOT 3	LOT 4	LOT 5	LOT 6	LOT 7
1	1	1	1	1	1	1
1	1	ı	1	ı	Ţ	1
LOT 14	LOT 13	LOT 12	LOT 11	10T 10	1079	tor 8

PLAT FOR OAK STREET SUBDIVISION

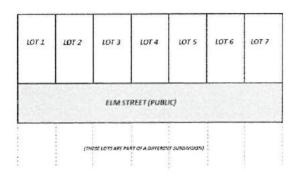
PLAT FOR OAK STREET SUBDIVISION

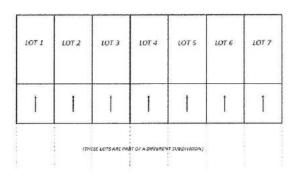
Before closure.

After closure.

Example 2: Elm Street Closure.

Like Oak Street, Elm Street is a paper street and was never constructed. Unlike Oak Street, Elm Street was dedicated through a plat with lots on only one side of it. Therefore, only the lot owners on that side of the street will be required to sign the application.





PLAT FOR ELM STREET SUBDIVISION

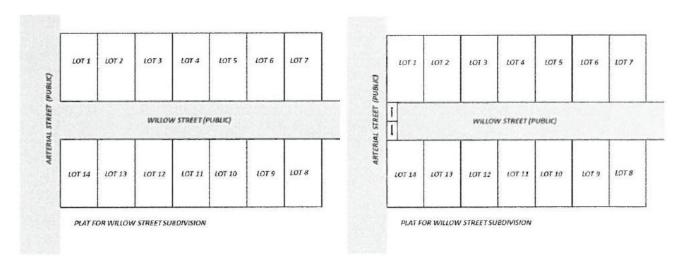
PLAT FOR ELM STREET SUBDIVISION

Before closure.

After closure.

Example 3: Willow Street Closure.

Unlike Oak and Elm Streets, Willow Street is a built City street open to the public. Concerned with the traffic that cuts through the neighborhood from Arterial Street, the owners of Willow Street have proposed that the street remain public, but that the street be closed off at Arterial Street. Willow Street connects to the system of city streets from the other direction. With this scenario, only the owners of Lot 1 and 14 will be required to sign the application since only a small portion of Willow Street will be deeded to them.

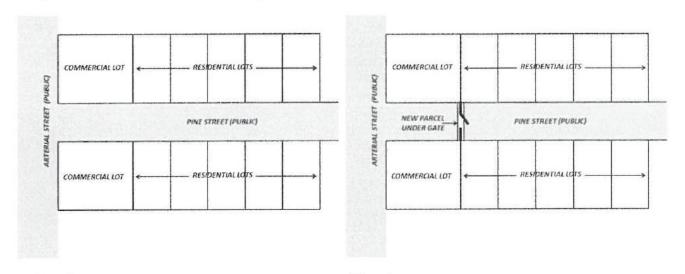


Before closure.

After closure.

## Example 4: Pine Street Closure

Like Willow Street, Pine Street is a built City street open to the public. Unlike Willow Street, the owners along Pine Street do not want to vacate any right-of-way; instead, they wish to erect a gate for emergency access only in the public street. Pine Street connects to the system of city streets from another direction. This will require that the right-of-way under the gate be deeded to an established Homeowners Association to which the adjacent owners are members (the City will first deed the property to the adjacent owners, who can then immediately transfer it to the HOA). It will also require covenants to be recorded that will bind either the adjacent property owner(s), all lot owners within the subdivision or a homeowners association to take full responsibility and ownership of the gate and to hold the City or County harmless for any damages to the gate or vehicles that have struck the gate.



Before closure.

After closure.

## Example 5: Street Closures with active Homeowners Associations.

If a street is to be closed and converted to a private drive that will be maintained by a duly chartered homeowners or property owners association, only the representative of the association will be required to sign the application.

## ALL APPLICATIONS MUST BE SUBMITTED IN PERSON AND THE SUBMITTER MUST RECEIVE A RECEIPT OF ACCEPTANCE FROM STAFF



## Shelby County Tennessee

## Shelandra Y Ford

Shelby County Register

As evidenced by the instrument number shown below, this document has been recorded as a permanent record in the archives of the Office of the Shelby County Register.

#### 21094969

07/30/2021 - 03:33:30 PM 4 PGS CHRISTINAM 2274423-21094969 800.00 VALUE MORTGAGE TAX 0.00 2.96 TRANSFER TAX 20.00 RECORDING FEE 2.00 DP FEE REGISTER'S FEE 1.00

SHELANDRA Y FORD

25.96

TOTAL AMOUNT

REGISTER OF DEEDS SHELBY COUNTY TENNESSEE

## **QUIT CLAIM DEED**

KNOW ALL MEN BY THESE PRESENTS, that the County of Shelby, a political subdivison of the State of Tennessee, for and in consideration of:

## EIGHT HUNDRED DOLLARS AND NO/100S

\$800.00 Dollars.

does hereby bargain, sell, remise, quit claim and convey unto the said:

MIM LLC

the following described real estate located in Shelby County, Tennesee, to-wit:

## (SEE ATTACHED EXHIBIT "A")

Being the same property conveyed to Shelby County Government in Tax Sale 1603 01/14/2020 which sale was confirmed in Docket # 2018-2 Property Address: 0 HINDMAN Parcel # 07002800000160

Conveyance of the above described property is made without warranties of any sort.

IN WITNESS WHEREOF, the grantor has caused this instrument to be executed by the duly authorized County Trustee, this MORRISON NEWMAN, SHELBY COUNTY TRUSTEE STATE OF TENNESSEE, COUNTY OF SHELBY Before me, a Notary Public in and for said County, duly commissioned and qualified, personally appeared Regina Morrison Newman, as Trustee of Shelby County, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that the same for the purposes therein contained. WITNESS my hand and Notarial Seal at office

TENNESSEE

NOTARYOTARY PUBLIC

My Commission Expires:

POL POLY CONTRACTOR OF THE PROPERTY OF THE PRO Commentation of the Control of the C IN WITNESS WHEREOF, the grantor has caused this instrument to be executed by the duly day of , 2021

LEE HARRIS, SHELBY COUNTY MAYOR

STATE OF TENNESSEE, COUNTY OF SHELBY Before me, a Notary Public in and for said County, duly commissioned and qualified, personally appeared Lee Harris as Mayor of Shelby County, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same for the purposes therein contained. WITNESS my hand and Notarial Seal at office this 8 day of 500

My Commission Expires:

APPROVED AS TO FORM:

B. Turner, Up. #018258 QUENT TAX ATTORNEY

### RECORDING DATA ONLY

#### Return Address:

Office of the Shelby County Trustee 157 Poplar Avenue - Third Floor Memphis, TN 38103

ATTENTION: LESLIE BLESSIKE

#### Property Address:

0 HINDMAN 07002800000160

## Mail Tax Bills To:

MIM LLC

3774 CONRAIL CIR.

HORNLAKE MS 38637

#### Property Owner:

MIM LLC

3774 CONRAIL CIR.

HORNLAKE MS 38637

This instrument prepared by: (John B. Turner, Jr. #018258) DELINQUENT TAX ATTORNEY 157 POPLAR AVENUE, 2ND FLOOR MEMPHIS, TN 38103

STATE TAX\_ REGISTER'S FEE\_ RECORDING FEE\_ TOTAL

I/We hereby swear/affirm that to the best of affiant's knowledge, information, and belief, the actual consideration for this transfer \$800.00

Subscribed and sworn to before me

JUL 2 2 2021

My Commission expires:

STATA
TENNES,
NOTARY
PUBLIC

MARKET STATA
TENNES,
NOTARY
PUBLIC
MARKET STATA
MARKET

COMMISSION EXPIRES 522

## "Exhibit A"

Beginning at a point in the east line of Henderson Road and the center line of Hindman Ferry Road; thence east with the center line of Hindman Ferry Road 215 feet to a point, said point being the southeast corner of the W. A. Henderson 24.50 acre tract; thence north along the Henderson east line 210 feet to a point; thence west parallel with Hindman Ferry Road a distance of 215 feet to a point in the east line of Henderson Road; thence south along the east line of Henderson Road 210 feet to the point of beginning.

Being the same property as described in Instrument No. 07009679. The above description is the same as found in prior deed of record as a boundary line survey was not done at the time of this conveyance.

PARCEL ID: 07002800000160

I, John B. Turner Jr., do hereby make oath that I am a licensed attorney and/or the custodian of the paper version of the electronic record tendered for registration herewith and that this is a true and correct copy of the electronic record executed pursuant to § 47-10-112 and other provisions of the Uniform Electronic Transactions Act or other provisions of law.

STATE OF TENNESSEE) COUNTY OF SHELBY)

On this JUL 0 2 2021 before me personally appeared John B. Turner Jr., to me known to be the person described in and who acknowledges that this certification is true and correct and whose signature I have witnessed.

My Commission Expires:

MITCHELL BURNTE JR 2511 HENDERSON ST # MEMPHIS TN 38127

MORENO JOSE DE JESUS AGUILAR 1528 HINDMAN AVE # MEMPHIS TN 38127

HENSERSON LARRY & DEBORAH 1818 RUSSELL BOND RD # MILLINGTON TN 38053

VERTICAL BRIDGE LANDCO LLC 2800 POST OAK BLVD #3700 HOUSTON TX 77056 MITCHELL BURNTE JR 2511 HENDERSON ST # MEMPHIS TN 38127

MORENO JOSE DE JESUS AGUILAR 1528 HINDMAN AVE # MEMPHIS TN 38127

HENSERSON LARRY & DEBORAH 1818 RUSSELL BOND RD # MILLINGTON TN 38053

VERTICAL BRIDGE LANDCO LLC 2800 POST OAK BLVD #3700 HOUSTON TX 77056 070029 00041 - MITCHELL BURNTE JR

070029 00019 - MORENO JOSE DE JESUS AGUILAR

070028 00017 - HENSERSON LARRY & DEBORAH

070028 00015 - VERTICAL BRIDGE LANDCO LLC

070029 00041 - MITCHELL BURNTE JR

070029 00019 - MORENO JOSE DE JESUS AGUILAR

070028 00017 - HENSERSON LARRY & DEBORAH

070028 00015 - VERTICAL BRIDGE LANDCO LLC

MIM LLC

P O BOX 488

HORN LAKEMS 38637

DEDRICK BRITTENUM JR
3385 AIRWAYS BLVD STE 229
MEMPHIS TN 38116

WES ASHWORTH

10815 COLLIERVILLE RD

COLLIERVILLE TN 38017

MIM LLC

P O BOX 488

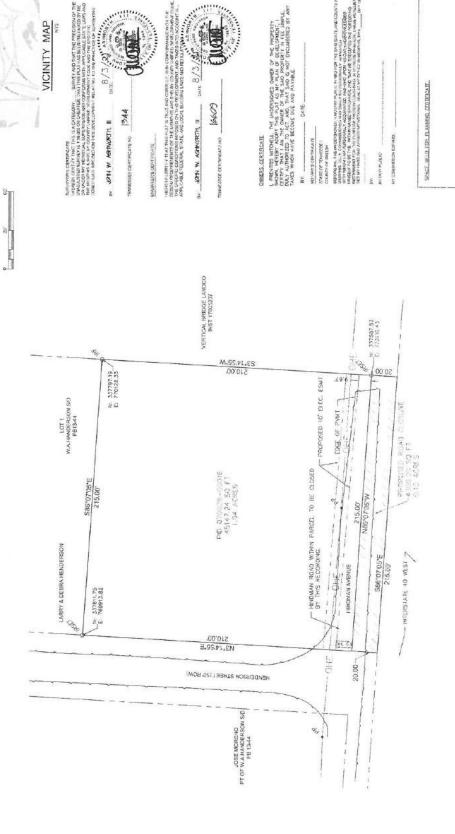
HORN LAKEMS 38637

DEDRICK BRITTENUM JR 3385 AIRWAYS BLVD STE 229 MEMPHIS TN 38116

WES ASHWORTH

10815 COLLIERVILLE RD

COLLIERVILLE TN 38017



SITE

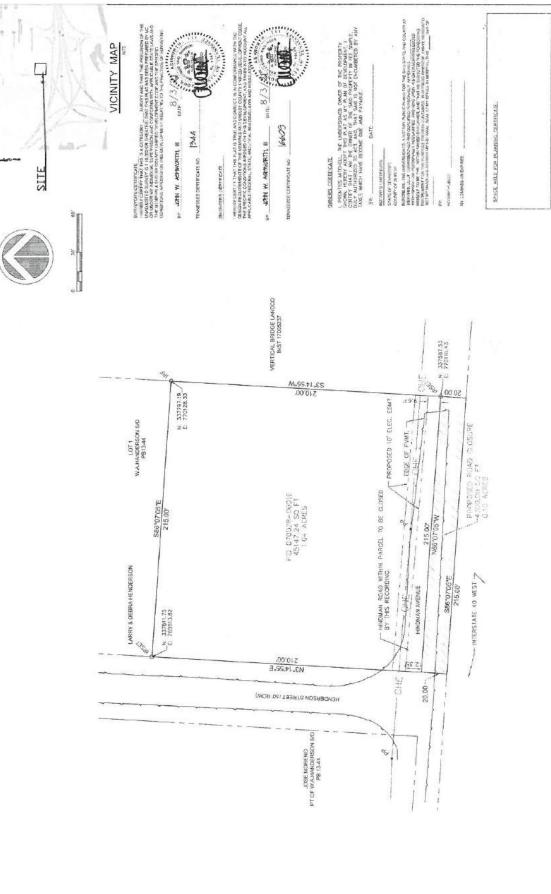
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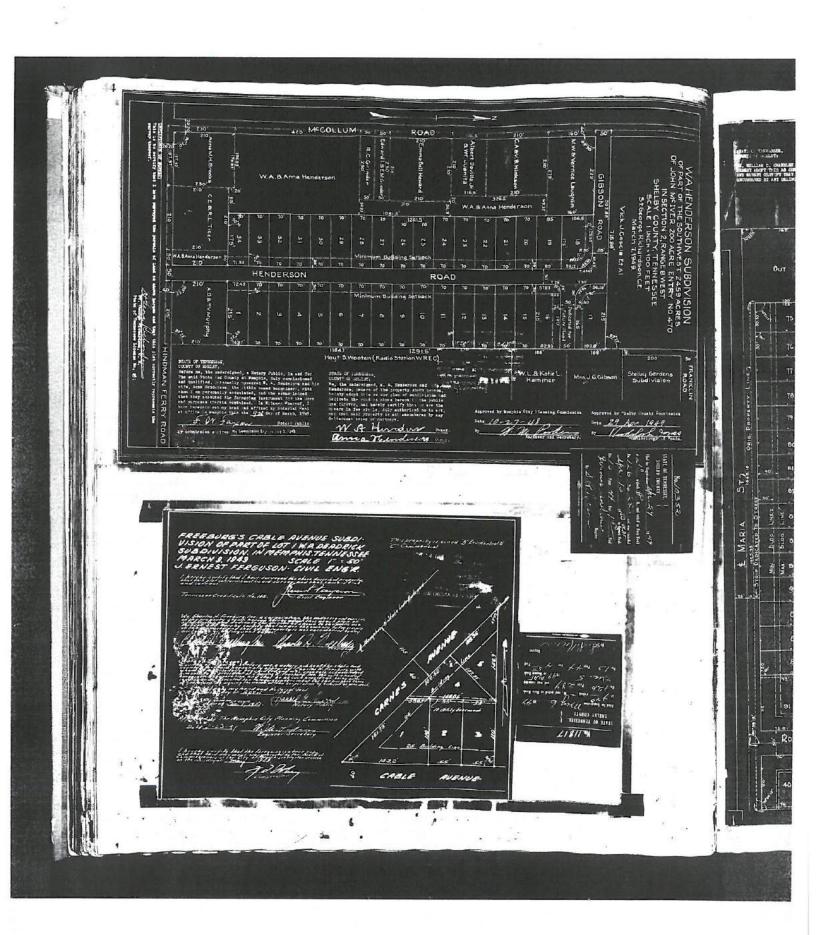
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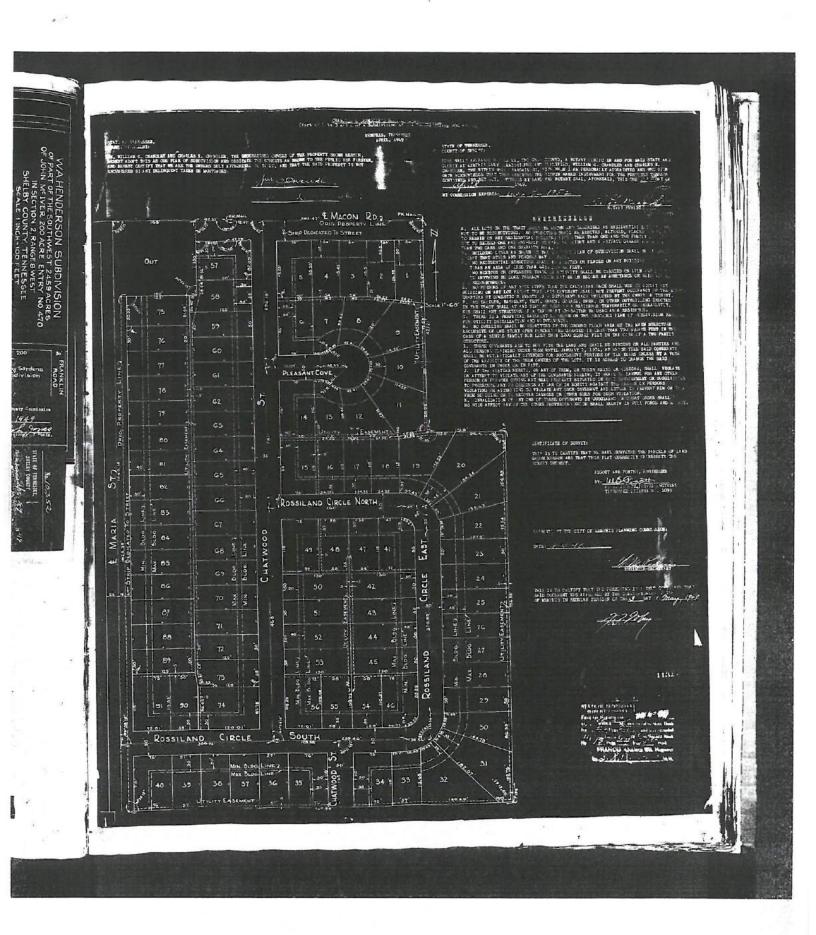
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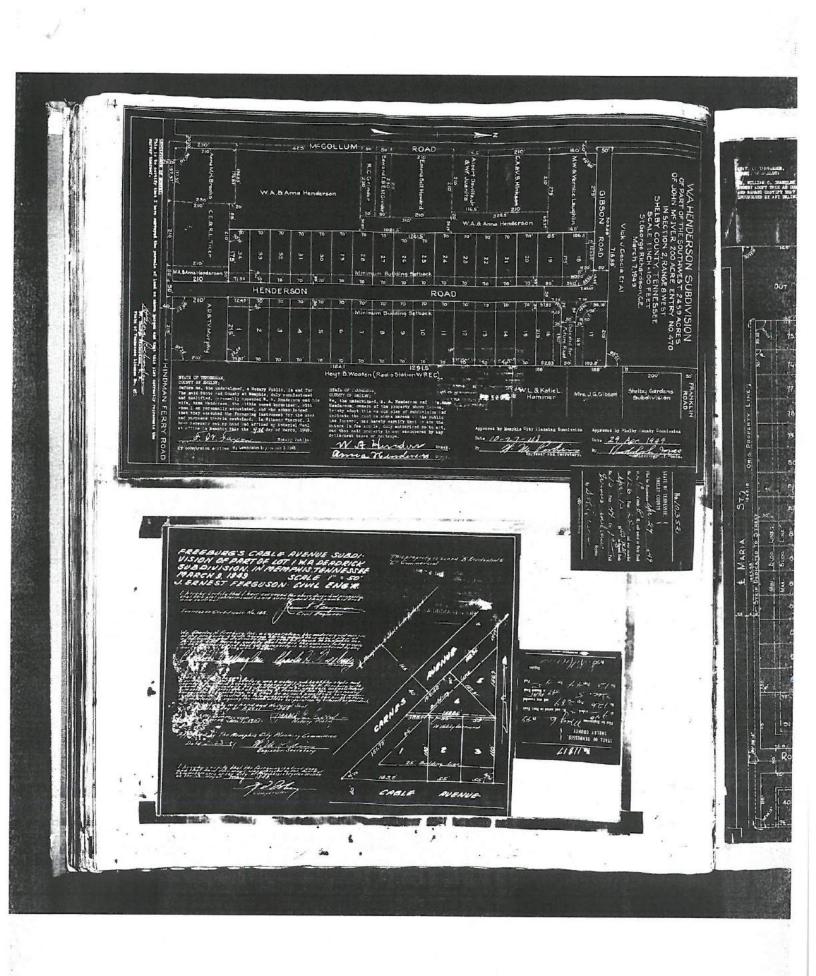
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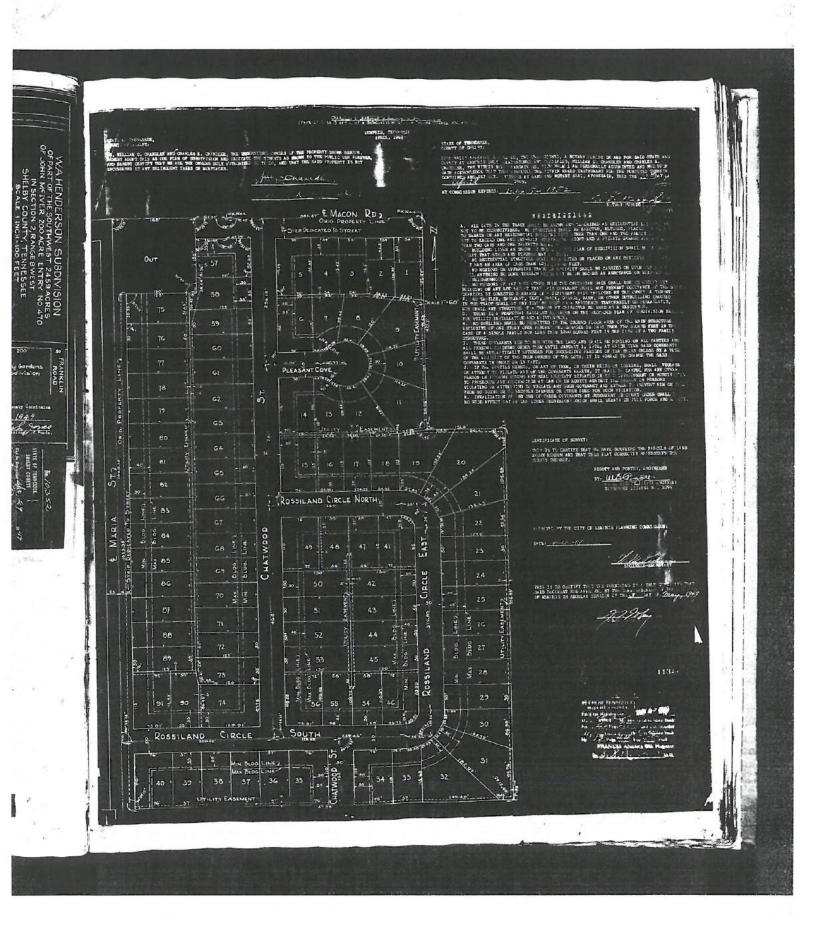
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# **Brittenum**

Law pllc

ATTORNEY AT LAW

Airways Professional Center — Aerotropolis
3385 Airways Boulevard, Suite 229

Memphis, Tennessee 38116 USA

Telephone 901.347.3978

Facsimile 901.800.1927

db@brittepunlaw.com

5 August 2021

Via Hand Delivery

Josh Whitehead, AICP
Planning Director / Administrator
Memphis & Shelby County Office of Planning and Development
City Hall
125 North Main Street, Suite 468
Memphis, TN 38103

RE: 0 Hindman Avenue - Application for Rezoning Approval

Hindman Avenue Section - Application for Street Closure Approval

## Dear Administrator Whitehead:

I represent MIM LLC for rezoning and street closure applications to redevelop the above tract for Commercial Mixed Use-3 zoning district (CMU-3) use. The subject property is currently zoned R-6 with no overlay district. The applications request approval of the CMU-3 zoning district and the closure of the section of Hindman Avenue adjacent to the requested rezoning parcel on the south. Although the large tract due east is zoned R-6, it is showing on the zoning map legend as industrial use. Upon approval, the Hindman parcel and the closed Hindman Avenue section will be one lot located adjacent to I-40 west. Enclosed are the Application for Rezoning Approval and the Applications for Right-of-Way Vacation/
Street/Alley/Closure Approval. Please consider these applications as companion cases.

The 0 Hindman Avenue parcel was sold at tax sale to the Shelby County Land Bank in January 2020. It was sold to the Applicant here as the highest bidder upon confirmation by the Shelby County Commission in February 2021 for future development. The subject parcel is vacant land. The closure of the section of Hindman Avenue currently used for illegal dumping of furniture, tires, trash and other debris will reduce blight in the area.

Thank you for your attention and should you have questions or comments, please advise. I remain,

Dedrick Brittenum, Jr.

Very truly yours,

enclosure

#### LEGAL DESCRIPTION

## proposed road closure

BEGINNING AT A NAIL SET AT THE INTERSECTION OF THE CENTERLINE OF HINDMAN AVENUE (40' WIDE) AND THE EAST LINE OF HENDERSON STREET (50' WIDE) HAVING TN STATE PLANE COORDINATES (NAD83) OF N:337602.08, E:769901.92; THENCE ALONG THE CENTERLINE OF HINDMAN EASTERLY WITH A BEARING OF S 86°07'05" E A DISTANCE OF 215.00 FEET TO AIRON PIN SET; THENCE SOUTHERLY WITH A BEARING OF S 03°14'55" W A DISTANCE OF 20.00 FEET TO A POINT; THENCE WESTERLY ALONG THE SOUTHERLY LINE OF HINDMAN AVENUE WITH A BEARING OF N 86°07'05" W A DISTANCE OF 215.00 FEET TO A POINT; THENCE NORTHERLY WITH A BEARING OF N 03°14'55" E A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING.; CONTAINING 4300.00 SQUARE FEET OR 0.099 ACRES MORE OR LESS.

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This Instrument Prepared by: Philip J. Cooper

251 Adams Avenue/Memphis, Tn.QUIT CLAIM DEED



KNOW ALL MEN BY THESE PRESENTS, that Hazel Diehl	
of the County of Shelby Lennossee	
of the County of Shelby and State of Tennessee sum of \$10.00 or other and good valuable considera release, remise, quit claim and convey unto Arvy Ray Diehl and wife	tion Dollars, do hereby bargain, se
all her right, title and interest in and to the following desc	
	ribed real estate, to-wit:
West 135 feet of Lot 16 and the West 135 feet feet of Lot 17 on the Plan of Goodwin Place Sthe J. A. Goodwin 13.11 acre tract, as shown in Plat Book 7, page 6, in the Register's Off County, Tennessee, described as:	Subdivision, of
Beginning at the point of intersection of the South Evergreen Street and the South line of and running thence South with the East line of Street 60 feet; thence East 135 feet to a poi South of the South line of Madison Avenue; the feet to the South line of Madison Avenue; the South line 135 feet to the point of beginning	Madison Avenue; f South Evergreen nt 60 feet ence North 60
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My Commission Expires August 21 1047	Lucia
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## CITY OF MEMPHIS COUNCIL AGENDA CHECK OFF SHEET

Planning & Development ONE ORIGINAL DIVISION ONLY STAPLED Planning & Zoning COMMITTEE: 09/21/2021 TO DOCUMENTS DATE PUBLIC SESSION: 09/21/2021 DATE ITEM (CHECK ONE) GRANT ACCEPTANCE / AMENDMENT CONDEMNATIONS X ORDINANCE GRANT APPLICATION X REQUEST FOR PUBLIC HEARING RESOLUTION OTHER: An ordinance approving a zoning change ITEM DESCRIPTION: Z 21-12 CASE NUMBER: Northeast intersection of Hindman Avenue and Henderson Street LOCATION: District 7 and Super District 8 - Positions 1, 2, and 3 COUNCIL DISTRICTS: MIM LLC OWNER/APPLICANT: REPRESENTATIVES: Dedrick Brittenum, Jr. Residential Single-Family - 6 (R-6) District EXISTING ZONING: Rezoning of +/-1.037 acres from Residential Single-Family - 6 (R-6) to Commercial Mixed-Use - 3 (CMU-3) REQUEST: +/-1.037 acres AREA: The Office of Planning and Development recommended Rejection RECOMMENDATION: The Land Use Control Board recommended Approval RECOMMENDED COUNCIL ACTION: Public Hearing Required Set date for first reading - September 21, 2021 Adopt on third Reading - October 19, 2021 PRIOR ACTION ON ITEM: APPROVAL - (1) APPROVED (2) DENIED (1)09/09/2021 DATE ORGANIZATION - (1) BOARD / COMMISSION (1) Land Use Control Board (2) GOV'T. ENTITY (3) COUNCIL COMMITTEE FUNDING: REQUIRES CITY EXPENDITURE - (1) YES (2) NO (2)AMOUNT OF EXPENDITURE REVENUE TO BE RECEIVED SOURCE AND AMOUNT OF FUNDS OPERATING BUDGET CIP PROJECT # FEDERAL/STATE/OTHER **POSITION** ADMINISTRATIVE APPROVAL: MUNICIPAL PLANNER DEPUTY ADMINISTRATOR **ADMINISTRATOR** DIRECTOR (JOINT APPROVAL) COMPTROLLER FINANCE DIRECTOR CITY ATTORNEY CHIEF ADMINISTRATIVE OFFICER

COMMITTEE CHAIRMAN



## Memphis City Council Summary Sheet

## Z 21-12

Zoning Ordinance approving a zoning district reclassification for the subject property located at the northeast intersection of Hindman Avenue and Henderson Street:

- This item is an ordinance for reclassification from Residential Single-Family 6 (R-6) to Commercial Mixed-Use 3 (CMU-3) at the aforementioned location; and
- Approval of this zoning distrit reclassification will be reflected on the Memphis and Shelby Counting Zoning Atlas; and
- No contracts are affected by this item; and
- No expenditure of funds/budget amendments are required by this item.

ZONING ORDINANCE AMENDING ORDINANCE NO. 5367 OF THE CODE OF ORDINANCES, CITY OF MEMPHIS, TENNESSEE, ADOPTED ON AUGUST 10, 2010, AS AMENDED, KNOWN AS THE MEMPHIS AND SHELBY COUNTY UNIFIED DEVELOPMENT CODE, SO AS TO MAKE CERTAIN CHANGES IN THE USE DISTRICTS PROVIDED IN SAID ORDINANCE

**WHEREAS,** a proposed amendment to the Memphis and Shelby County Unified Development Code, being Ordinance No. 5367 of the Code of Ordinances, City of Memphis, Tennessee, as amended, has been submitted to the Memphis and Shelby County Land Use Control Board for its recommendation, designated as **Case Number: Z 21-12**; and

**WHEREAS,** the Memphis and Shelby County Land Use Control Board has filed its recommendation and the Division of Planning and Development has filed its report and recommendation with the Council of the City of Memphis; and

**WHEREAS**, the Council of the City of Memphis has reviewed the aforementioned amendment pursuant to Tennessee Code Annotated Section 13-4-202(B)(2)(B)(iii) and has determined that said amendment is consistent with the Memphis 3.0 General Plan; and

**WHEREAS,** the provisions of the Code of Ordinances, City of Memphis, Tennessee, as amended, relating to the proposed amendment, have been complied with.

NOW THEREFORE, BE IT ORDAINED, BY THE COUNCIL OF THE CITY OF MEMPHIS:

### **SECTION 1:**

**THAT**, the Memphis and Shelby County Unified Development Code, Ordinance No. 5367 of the Code of Ordinances, City of Memphis, as amended, be and the same hereby is amended with respect to Use Districts, as follows:

BY TAKING THE FOLLOWING PROPERTY OUT OF THE RESIDENTIAL SINGLE-FAMILY -6 (R-6) USE DISTRICT AND INCLUDING IT IN THE COMMERCIAL MIXED-USE -3 (CMU-3) USE DISTRICT.

The following property located in the City of Memphis, Tennessee being more particularly described as follows:

BEGINNING AT A NAIL SET AT THE INTERSECTION OF THE EAST LINE OF HENDERSON STREET (50' WIDE) AND THE CENTERLINE OF HINDMAN AVENUE (40' WIDE) HAVING TN STATE PLANE COORDINATES(NAD83) OF N:337602.08, E:769901.92; THENCE NORTHERLY ALONG THE EAST LINE OF HENDERSON ST. WITH A BEARING OF N 03°14'55"EA DISTANCE OF 210.00 FEET TO AN IRON ROD SET AT THE SOUTHWEST CORNER OF LARRY & DEBRA HENDERSON TRACT; THENCE ALONG THE SOUTHERLY LINE OF SAID HENDERSON TRACT EASTERLY WITH A BEARING OF S 86°07'05" EA DISTANCE OF 215.00 FEET TO A IRF; THENCE ALONG THE WESTERLY LINE OF VERTICAL BRIDGE LANDCO TRACT SOUTHERLY WITH A

BEARING OF S 03°1'455" WA DISTANCE OF 210.00 FEET TO AN IRON ROD SET; THENCE ALONG THE CENTER OF HINDMAN AVENUE WESTERLY WITH A BEARING OF N 86°07'05" WA DISTANCE OF 215.00FEET TO THE POINT OF BEGINNING.; CONTAINING 45147.24 SQUARE FEET OR 1.036 ACRES MORE OR LESS.

### **SECTION 2:**

**THAT,** the Zoning Administrator of the Division of Planning and Development be, and is hereby directed to make the necessary changes in the Official Use District Maps to conform to the changes herein made; that all official maps and records of the Memphis and Shelby County Land Use Control Board and the City of Memphis be, and they hereby are, amended and changed so as to show the aforementioned amendment of the said Zoning Ordinance.

## **SECTION 3:**

**THAT,** this ordinance take effect from and after the date it shall have been passed by the Council, signed by the Chairman of the Council, certified and delivered to the Office of the Mayor in writing by the comptroller, and become effective as otherwise provided by law.

## **ATTEST:**

**CC:** Division of Planning and Development

- Land Use and Development Services
- Office of Construction Enforcement Shelby County Assessor

## LAND USE CONTROL BOARD RECOMMENDATION

At its regular meeting on *Thursday, September 9, 2021*, the Memphis and Shelby County Land Use Control Board held a public hearing on the following application:

**CASE NUMBER:** Z 21-12

LOCATION: Northeast intersection of Hindman Avenue and Henderson Street

**COUNCIL DISTRICT(S):** District 7 and Super District 8 – Positions 1, 2, and 3

OWNER/APPLICANT: MIM LLC

**REPRESENTATIVE:** Dedrick Brittenum, Jr.

**REQUEST:** Rezoning of +/-1.037 acres from Residential Single-Family – 6 (R-6)

to Commercial Mixed-Use – 3 (CMU-3)

Residential Single-Family – 6 (R-6) District **EXISTING ZONING:** 

AREA: +/-1.037 acres

The following spoke in support of the application: Dedrick Brittenum, Jr. and Prentiss Mitchell

The following spoke in opposition of the application: None

The Land Use Control Board reviewed the application and the staff report. A motion was made and seconded to recommend approval of the application.

The motion passed by a unanimous vote of 9-0 on the regular agenda.

Respectfully,

Clarke Shupe-Diggs

Municipal Planner

Land Use and Development Services Division of Planning and Development

Cc: Committee Members

File



City Hall - 125 N. Main Street, Suite 468 - Memphis, Tennessee 38103 - (901) 636-6619

September 10, 2021

MIM LLC PO Box 488 Horn Lake, MS 38637

Sent via electronic mail to: MIMLLCMEMPHIS@GMAIL.COM

Case Number: Z 21-12

LUCB Recommendation: Approval

Dear applicant,

On Thursday, September 9, 2021, the Memphis and Shelby County Land Use Control Board recommended *approval* of your rezoning application located at the northeast corner of the intersection of Hindman Avenue and Henderson Street to be included in the Commercial-Mixed Use – 3 (CMU-3) Zoning District.

This application will be forwarded, for final action, to the Council of the City of Memphis. Ordinances appear on three consecutive Council Agendas with the third one being the Public Hearing. The Council will review your application in a committee meeting prior to voting on it in a public hearing. The applicant or the applicant's representative(s) shall be in attendance at all meetings and hearings.

It is the applicant's responsibility to contact the City Council Records Office to determine when the application is scheduled to be heard at committee and in public session. The City Council Records Office may be reached at (901) 636-6792.

If for some reason you choose to withdraw your application, a letter should be mailed to the Land Use and Development Services Department of the Division of Planning and Development at the address provided above or emailed to the address provided below.

If you have questions regarding this matter, please feel free to contact me at (901) 636-6619 or via email at Clarke. Shupe. Diggs@memphistn.gov.

# Letter to Applicant Z 21-12

Respectfully,

Clarke Shupe-Diggs Municipal Planner Land Use and Development Services Division of Planning and Development

Cc: Dedrick Brittenum, Jr., Brittenum Law PLLC File

## dpd STAFF REPORT

**AGENDA ITEMS:** 13 & 17

**CASE NUMBER:** Z 2021-12 & SAC 2021-07 **L.U.C.B. MEETING:** September 9, 2021

**LOCATION:** Northeast corner of Hindman Avenue and Henderson Street

**COUNCIL DISTRICT:** District 7 and Super District 8 – Positions 1, 2, and 3

OWNER/APPLICANT: MIM LLC

**REPRESENTATIVE:** Dedrick Brittenum, Jr.

**REQUEST:** Rezoning of +/-1.037 acres from Residential Single-Family – 6 (R-6) to Commercial Mixed-

Use – 3 (CMU-3) and physical closure of a portion of Hindman Avenue, east of Henderson

Street

**AREA:** +/-1.037 acres

**EXISTING ZONING:** Residential Single-Family – 6 (R-6) and, for the existing right-of-way of Hindman Avenue,

Residential Single-Family – 15 (R-15)

#### **CONCLUSIONS**

1. The request is to rezone 1.04 acres from Residential Single-Family -6 (R-6) to Commercial Mixed-Use -3 (CMU-3) and to physically close a portion of Hindman Avenue, east of Henderson Street.

- 2. The subject property is currently vacant, and the underlying purpose of the rezoning request is to develop and improve the site for future commercial use.
- 3. This rezoning request is inconsistent with the Memphis 3.0 General Plan, which calls for the preservation and maintenance of the existing single-family housing stock present in the surrounding neighborhood. Additionally, the availability of adequate police services, fire services, school, road, park, wastewater treatment, water supply and storm water drainage facilities for the proposed zoning is limited. In view of these issues, Staff believes that an intensification of development at this location may adversely impact the quality of life in the surrounding neighborhood.
- 4. The applicant is further seeking to close and vacate right-of-way of a portion of Hindman Avenue, east of Henderson street. The subject right-of-way is mostly unimproved, terminating in a circular dead end.
- 5. Staff finds the request to rezone the subject property from R-6 to CMU-3 is an inappropriate zoning district for the area that is incompatible with the surrounding land uses. However, staff agrees that the closure of the adjacent subject right-of-way would not have any undue or substantial effect upon the existing vehicular and pedestrian traffic flow of the surrounding area.

#### **CONSISTENCY WITH MEMPHIS 3.0**

This proposal is inconsistent with the Memphis 3.0 General Plan per the land use decision criteria. See further analysis on pages 13-14 of this report.

#### **RECOMMENDATION**

Rejection of CMU-3
Approval of OG

Approval of the Physical Closure of Hindman Avenue with Conditions

Staff Writer: Clarke Shupe-Diggs E-mail: Clarke.Shupe.Diggs@memphistn.gov

 Staff Report
 September 9, 2021

 Z 2021-12 & SAC 2021-07
 Page 2

#### **GENERAL INFORMATION**

Street Frontage: Henderson Street +/-166.8 linear feet

**Zoning Atlas Page:** 1830

Parcel ID: 070028 00016

**Existing Zoning:** Residential Single-Family – 6 (R-6) and Residential Single-Family – 15 (R-15)

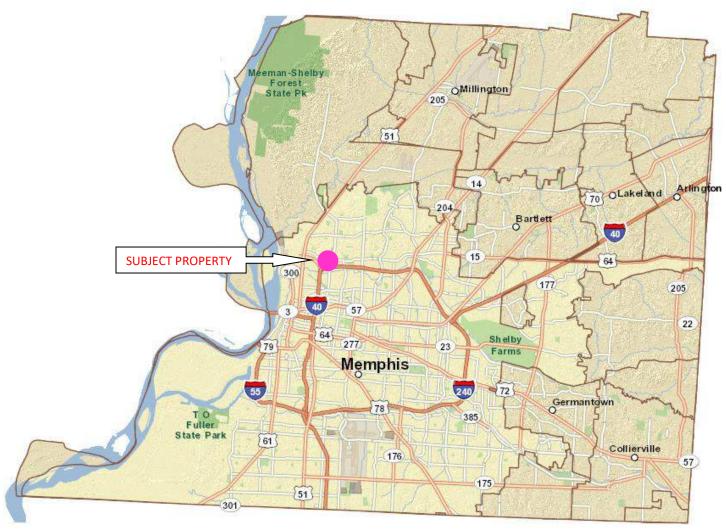
#### **NEIGHBORHOOD MEETING**

The meeting was held at 12:00 PM on Wednesday, August 25, 2021, at the intersection of Hindman Avenue and Henderson Street.

#### **PUBLIC NOTICE**

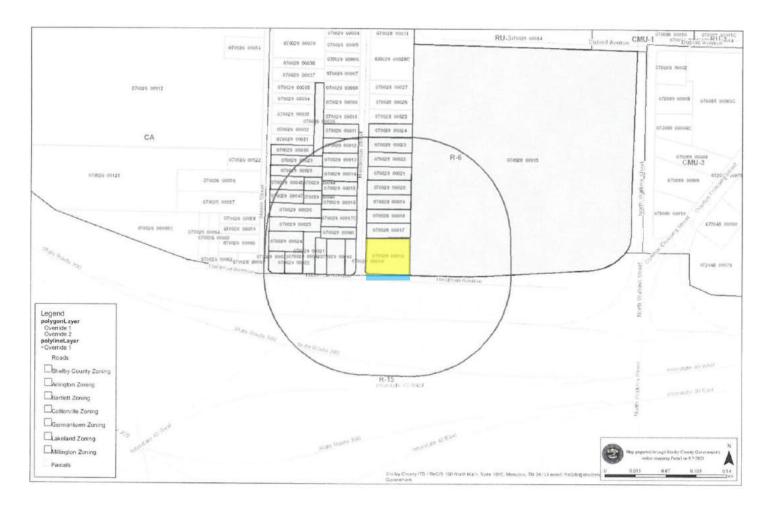
In accordance with Sub-Section 9.3.4A of the Unified Development Code, a notice of public hearing is required to be mailed and signs posted. A total of 59 notices (34 notices for Z 21-12; 25 notices for SAC 21-7) were mailed on August 27, 2021, a total of 1 sign was posted at the subject property, and a total of 1 sign was posted on the end of the right-of-way to be closed and vacated. The sign affidavits have been added to this report.

#### **LOCATION MAP**



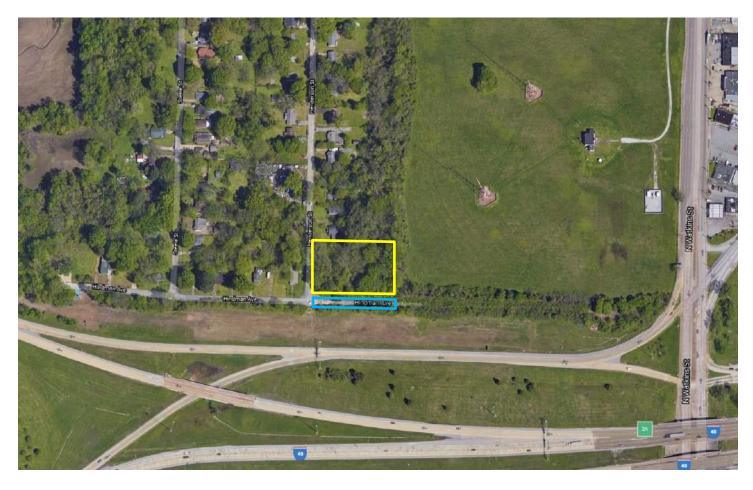
Subject property located within the pink circle, Frayser neighborhood

#### **VICINITY MAP**



Subject property highlighted in yellow; subject right-of-way highlighted in blue

#### **AERIAL**



Subject property outlined in yellow; subject right-of-way highlighted in blue

#### **ZONING MAP**



Subject property highlighted in yellow; subject right-of-way highlighted in blue

**Existing Zoning:** Residential Single-Family – 6 (R-6) and Residential Single-Family – 15 (R-15)

#### **Surrounding Zoning**

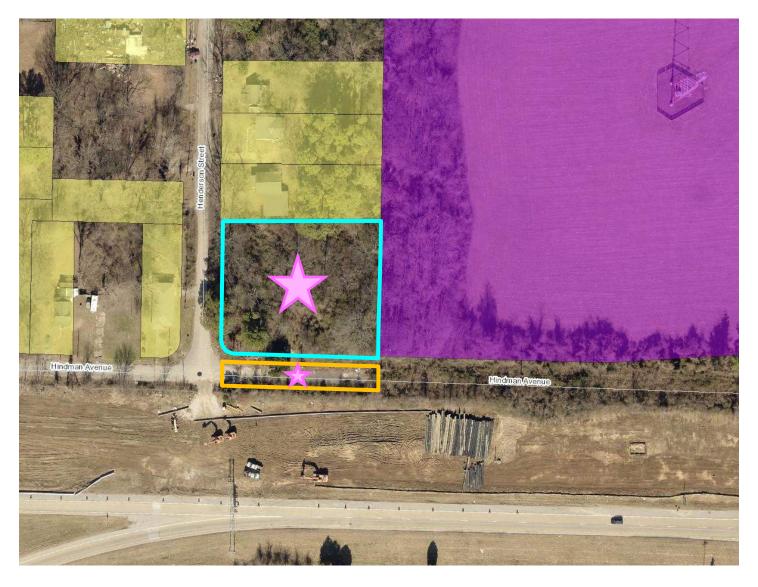
North: R-6

East: R-6

South: R-15

West: R-6 and R-15

#### **LAND USE MAP**



Subject property outlined in electric blue and indicated by pink star; subject right-of-way outlined in orange and indicated by pink star

#### **SITE PHOTOS**



View of subject property from Henderson Street, looking north

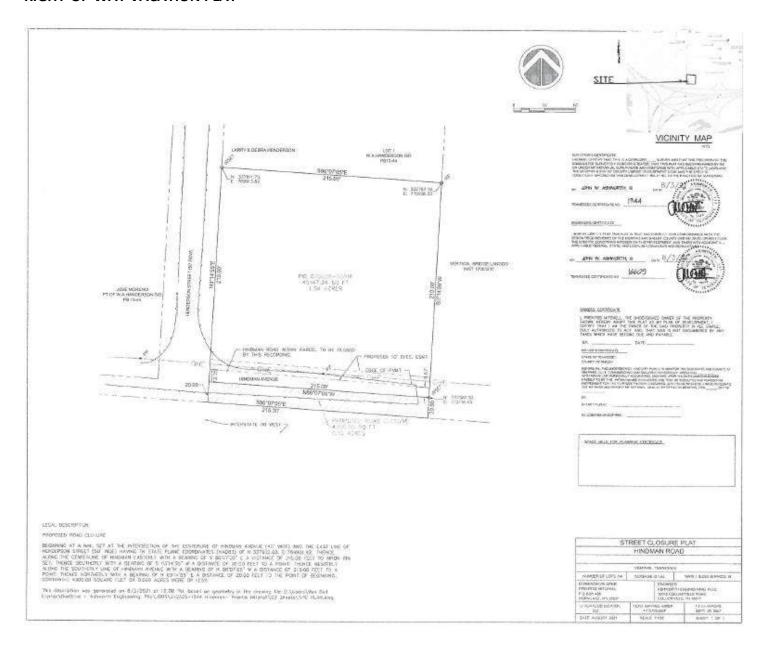


View of subject property from Henderson Street, looking southeast



View of subject right-of-way from Henderson Street, looking east

#### **RIGHT-OF-WAY VACATION PLAT**



Staff Report Z 2021-12 & SAC 2021-07 September 9, 2021 Page 11

#### (HINDMAN AVENUE) LEGAL DESCRIPTION

LEGAL DESCRIPTION

PID 070028-00016

BEGINNING AT A NAIL SET AT THE INTERSECTION OF THE EAST LINE OF HENDERSON STREET (50' WIDE) AND THE CENTERLINE OF HINDMAN AVENUE (40' WIDE) HAVING TN STATE PLANE COORDINATES (NAD83) OF N:337602.08, E:769901.92; THENCE NORTHERLY ALONG THE EAST LINE OF HENDERSON ST. WITH A BEARING OF N 03°14'55" E A DISTANCE OF 210.00 FEET TO AN IRON ROD SET AT THE SOUTHWEST CORNER OF LARRY & DEBRA HENDERSON TRACT; THENCE ALONG THE SOUTHERLY LINE OF SAID HENDERSON TRACT EASTERLY WITH A BEARING OF S 86°07'05" E A DISTANCE OF 215.00 FEET TO A IRF; THENCE ALONG THE WESTERLY LINE OF VERTICAL BRIDGE LANDCO TRACT SOUTHERLY WITH A BEARING OF S 03°14'55" W A DISTANCE OF 210.00 FEET TO AN IRON ROD SET; THENCE ALONG THE CENTER OF HINDMAN AVENUE WESTERLY WITH A BEARING OF N 86°07'05" W A DISTANCE OF 215.00 FEET TO THE POINT OF BEGINNING.; CONTAINING 45147.24 SQUARE FEET OR 1.036 ACRES MORE OR LESS.

This description was generated on 8/3/2021 at 12:22 PM, based on geometry in the drawing file C:\Users\Wes Dell Laptop\OneDrive - Ashworth Engineering, Pllc\JOBS\210325-1544 Hindman- Prentis Mitchell\03 Sheets\REZONING.dwg.

#### STAFF ANALYSIS

#### Request

The application and letter of intent have been added to this report.

The request is to rezone 1.04 acres from Residential Single-Family – 6 (R-6) to Commercial Mixed-Use – 3 (CMU-3) and physical closure of a portion of Hindman Avenue, east of Henderson Street.

#### **Review Criteria**

Staff disagrees the review criteria as set out in Sub-Section 9.5.7B of the Unified Development Code are met.

#### 9.5.7B Review Criteria

In making recommendations, the Land Use Control Board shall consider the following matters:

- 9.5.7B(1) Consistency with any plans to be considered (see Chapter 1.9);
- 9.5.7B(2) Compatibility with the present zoning (including any residential corridor overlay district) and conforming uses of nearby property and with the character of the neighborhood;
- 9.5.7B(3) Suitability of the subject property for uses permitted by the current versus the proposed district;
- 9.5.7B(4) Whether the proposed change tends to improve the balance of uses, or meets a specific demand in the City or County; and
- 9.5.7B(5) The availability of adequate police services, fire services, school, road, park, wastewater treatment, water supply and storm water drainage facilities for the proposed zoning.

#### **Site Description**

The subject property is +/-1.037 acres located on the east side of Henderson Street. The site is currently zoned Residential Single-Family – 6 and it is vacant land. The surrounding land uses are a mixture of vacant land, single-family residential, and industrial. There is no curb and gutter along the site's Henderson Street frontage.

The subject right-of-way is a +/-40-foot wide and +/-215-foot long east-west public alley for a total area of +/-1.063 acres that starts at Henderson Street and dead ends east of North Watkins Street. The subject right-of-way is located in-between two parcels, one of which is owned by the applicant (070028 00016), the other owned by Vertical Bridge Landco LLC (070028 00015).

#### **Consistency with Memphis 3.0**

Staff uses the following criteria contained in Memphis 3.0 to determine consistency.

- 1. The future land use planning map: The subject site is identified as **Primarily Single-Unit Neighborhood** (AN-S) in the future land use planning map.
- 2. The land use category descriptions and graphic portrayals, including whether the proposed use is compatible with the zone districts listed in the zoning notes and the proposed building(s) fit the listed form and location characteristics:

**NS** areas are located greater than a half-mile outside of any anchor destination. These neighborhoods contain mostly detached, house scale residences, serving mostly single-family style living. This is considered the typical suburban community that is not as walkable or accessible from an anchor.

#### "NS" Goals/Objectives:

Preservation/maintenance of existing singlefamily housing stock and neighborhoods

#### "NS" Zoning Notes:

Generally compatible with the following zoning

districts: R-E, R-15, R-10, R-8, R-6 in accordance with Form and characteristics listed below. Consult zoning map and applicable overlays for current and effective regulations. Changes unlikely; may consider rezonings, as appropriate, at the time of a small area plan.

#### "NS" Form & Location Characteristics:

- Primarily detached
- House-scale buildings
- Primarily residential
- 1-3 stories
- Beyond 1/2 mile from a Community Anchor

The proposed zoning district does meet these criteria because many of the commercial uses permitted by right in the CMU-3 district would interpose high intensity development within an otherwise low intensity, residential area.

3. Existing, adjacent land uses and zoning: The subject site is surrounded by the following land uses: single-family residential and industrial. The subject site is surrounded by the following zoning districts: R-6 and R-15. The commercial land uses permitted under the proposed zoning are incompatible with these adjacent land uses and zoning districts because they differ significantly in intensity (the proposed uses are more intense than the existing permitted uses).



- 4. *The degree of change map:* The subject site is undesignated in the Degree of Change map.
- 5. The degree of change descriptions: The Degree of Change descriptions are not applicable to this request.

Based on the land use decision criteria, this proposal is *inconsistent* with the Memphis 3.0 General Plan.



#### **Conclusions**

The request is to rezone 1.04 acres from Residential Single-Family -6 (R-6) to Commercial Mixed-Use -3 (CMU-3) and to physically close a portion of Hindman Avenue, east of Henderson Street.

The subject property is currently vacant, and the underlying purpose of the rezoning request is to develop and improve the site for future commercial use. The commercial mixed-use districts are generally intended to accommodate retail, service and commercial uses. The CMU-3 district accommodates a broad range of high intensity commercial, office, and employment uses that service through traffic as well as surrounding neighborhoods. The subject property fronts a residential street that is unimproved by curb and gutter, and is surrounded by a mixture of vacant land and single-family residential land uses.

This rezoning request is inconsistent with the Memphis 3.0 General Plan, which calls for the preservation and maintenance of the existing single-family housing stock present in the surrounding neighborhood. Additionally, the availability of adequate police services, fire services, school, road, park, wastewater treatment, water supply and storm water drainage facilities for the proposed zoning is limited. In view of these issues, Staff believes that an intensification of development at this location may adversely impact the quality of life in the surrounding neighborhood.

The applicant is further seeking to close and vacate right-of-way of a portion of Hindman Avenue, east of Henderson street. The subject right-of-way is mostly unimproved, terminating in a circular dead end. The City Engineer would prefer that the entire section of Hindman Avenue, which begins at Henderson street and terminates approximately 870 feet to the east, is closed. However, the applicant does not intend to close any portion of Hindman Avenue extending beyond the easternmost boundary of the adjacent land parcel they currently own (Parcel 070028 00016).

Staff finds the request to rezone the subject property from R-6 to CMU-3 is an inappropriate zoning district for the area that is incompatible with the surrounding land uses. However, staff agrees that the closure of the adjacent subject right-of-way would not have any undue or substantial effect upon the existing vehicular and pedestrian traffic flow of the surrounding area.

#### RECOMMENDATION

Staff recommends rejection of Commercial Mixed-Use – 3 (CMU-3). However, if approved, staff recommends approval of Office General (OG).

Staff recommends approval of the physical closure of Hindman Avenue, with the following conditions:

#### **SAC 21-7 Conditions**

- 1. Any existing sanitary sewers, drainage facilities, or other utilities shall be relocated at the applicant's expense or overlaid with an easement.
- 2. The applicant shall comply with all conditions of the closure within three years of the conditional approval of the closure by the Council of the City of Memphis.
- 3. If the owner of Tax Parcel 070028 00015 is able to sign the closure agreement within the three-year conditional approval time, that section of this street closure may be approved administratively through the submittal of a closure plat to the City of Memphis Real Estate Department.

#### **DEPARTMENTAL COMMENTS**

The following comments were provided by agencies to which this application was referred:

#### **City/County Engineer:**

CASE: **Z-21-012** 

NAME: Re-zone 1.04-acre lot from R6 to CMU-3

#### Sewers:

1. City sanitary sewers are available to serve this development.

CASE: **SAC-21-007** 

NAME: Hindman Avenue Closure

1. Standard Subdivision Contract or Right-Of-Way Permit as required in Section 5.5.5 of the Unified Development Code.

#### Roads:

- 2. The Developer shall be responsible for the repair and/or replacement of all existing curb and gutter along the frontage of this site as necessary.
- 3. All existing sidewalks and curb openings along the frontage of this site shall be inspected for ADA compliance. The developer shall be responsible for any reconstruction or repair necessary to meet City standards.

#### **Traffic Control Provisions:**

4. The developer shall provide a traffic control plan to the city engineer that shows the phasing for each street frontage during demolition and construction of curb gutter and sidewalk. Upon completion of

sidewalk and curb and gutter improvements, a minimum 5-foot-wide pedestrian pathway shall be provided throughout the remainder of the project. In the event that the existing right of way width does not allow for a 5-foot clear pedestrian path, an exception may be considered.

- 5. Any closure of the right of way shall be time limited to the active demolition and construction of sidewalks and curb and gutter. Continuous unwarranted closure of the right of way shall not be allowed for the duration of the project. The developer shall provide on the traffic control plan, the time needed per phase to complete that portion of the work. Time limits will begin on the day of closure and will be monitored by the Engineering construction inspectors on the job.
- 6. The developer's engineer shall submit a Trip Generation Report that documents the proposed land use, scope and anticipated traffic demand associated with the proposed development. A detailed Traffic Impact Study will be required when the accepted Trip Generation Report indicates that the number for projected trips meets or exceeds the criteria listed in Section 210-Traffic Impact Policy for Land Development of the City of Memphis Division of Engineering Design and Policy Review Manual. Any required Traffic Impact Study will need to be formally approved by the City of Memphis, Traffic Engineering Department.

#### **Curb Cuts/Access:**

7. The City Engineer shall approve the design, number and location of curb cuts.

#### **Street Closures:**

- 8. Provide easements for existing sanitary sewers, drainage facilities and other utilities or relocate at developer's expense.
- 9. The applicant shall provide for the construction of curb, gutter and sidewalk across the closure as required by the City Engineer. If the City Engineer approves access, the applicant shall construct a City Standard curb cut across the closure, all to the satisfaction of the City Engineer, and at the applicant's expense. The applicant shall enter into a Standard Improvement Contract or obtain a curb cut permit from the City Engineer to cover the above required construction work.
- 10. The applicant shall comply with all conditions of the closure within 3 years of the conditional approval of the closure by the City Council.

**City/County Fire Division:** No comments received.

**City Real Estate:** No comments received.

City/County Health Department: No comments received.

**Shelby County Schools:** No comments received.

**Construction Code Enforcement:** No comments received.

Memphis Light, Gas and Water:

CASE: **SAC-21-007** 

NAME: Hindman Avenue Closure

MLGW has reviewed the referenced application, and has <u>no objection</u>, **subject to** the following conditions:

- MLGW has existing utility distribution facilities within the present public road/alley right of way.
   The City of Memphis shall retain an easement across the proposed street closure, from edge to edge of the road right of way, to accommodate any existing public utilities, including electric, gas, water, CATV, telephone, sewer, drainage, etc.
- It is the responsibility of the owner/applicant to bear the cost if it is necessary for MLGW facilities to be installed, removed or relocated.
- MLGW reserves the right to retain a utility right-of-way within that portion of the existing public road right of way at all times for existing utilities, or the owner/applicant may choose to relocate existing utilities at the expense of the owner/applicant.
- MLGW must be able to access any overhead or underground facilities. Consequently, no permanent structure(s) shall be constructed or erected within that portion of the existing public road right of way including fences, buildings, patios, vehicle parking or paving.
- **No permanent structures, development or improvements** are allowed within any utility easements, without prior MLGW written approval.
- Underground Utility separation and clearance: The subject property is encumbered by existing
  utilities which may include overhead and underground facilities. It is the responsibility of the
  owner/applicant to maintain a minimum 3-foot (3') separation between any existing underground
  service lines or utilities and any proposed permanent structure or facility. This separation is necessary
  to provide sufficient space for any excavations to perform service, maintenance or replacement of
  existing utilities.
- If there are **existing fire hydrants** within the proposed closure of the public right-of-way, these hydrants will become public hydrants on private property, and the owner/applicant will be billed an annual maintenance fee on a monthly basis by MLGW.
- If there are **existing street lights** within the proposed closure of the public right-of-way, MLGW will remove all street lights, and abandon underground electric feeds or remove overhead electric feeds at the expense of the owner/applicant.
- STREET NAMES: It is the responsibility of the owner/applicant to contact MLGW-Address
  Assignment @ 729-8628 and submit proposed street names for review and approval. Please use the
  following link to the MLGW Land & Mapping website for Street Naming Guidelines and the Online
  Street Name Search: http://www.mlgw.com/builders/landandmapping
- It is the responsibility of the owner/applicant to identify any utility easements, whether dedicated or prescriptive (electric, gas, water, CATV, telephone, sewer, drainage, etc.), which may encumber the subject property, including underground and overhead facilities. No permanent structures will be allowed within any utility easements.
- It is the responsibility of the owner/applicant to contact TN-1-CALL @ 1.800.351.1111, before digging, and to determine the location of any underground utilities including electric, gas, water, CATV, telephone, etc.

- It is the responsibility of the owner/applicant to contact MLGW-Property Management, Land Rights Specialist @ 901-528-4186 to request a Release Deed for release of easement for any existing MLGW Easement(s) in conflict with the proposed development.
- It is the responsibility of the owner/applicant to pay the cost of any work performed by MLGW to install, remove or relocate any facilities to accommodate the proposed development.
- It is the responsibility of the owner/applicant to identify any utility easements, whether dedicated or prescriptive (electric, gas, water, CATV, telephone, sewer, drainage, etc.), which may encumber the subject property, including underground and overhead facilities. No permanent structures will be allowed within any utility easements.
- It is the responsibility of the owner/applicant to comply with the National Electric Safety Code (NESC) and maintain minimum horizontal/vertical clearances between existing overhead electric facilities and any proposed structures.
- It is the responsibility of the owner/applicant to comply with Memphis/Shelby County Zoning Ordinance- Landscape and Screening Regulations.
- Street Trees are prohibited, subject to the review and approval of the landscape plan by MLGW Engineering. It is the responsibility of the owner/applicant to submit a detailed landscape plan to MLGW Engineering.
- Landscaping is prohibited within any MLGW utility easement without prior MLGW approval.
- It is the responsibility of the owner/applicant to submit a detailed plan to MLGW Engineering for the purposes of determining the availability and capacity of existing utility services to serve any proposed or future development(s).
- Fire Protection Water Services: It is the responsibility of the owner/applicant to contact MLGW Water Engineering @ 901-528-4720 to obtain fire protection/water flow information. If water main
  extensions and/or an increase in existing main sizes are needed to meet the minimum fire flow rate
  to serve the proposed development, the owner/applicant will be responsible for the cost of these
  improvements.
  - Please refer to MLGW Service Policy Manual Water Main Extensions, Section 4.3 which is available online at the following MLGW website:
  - http://www.mlgw.com/images/content/files/pdf/ServicePolicyManual.pdf
- It is the responsibility of the owner/applicant to submit a detailed plan to MLGW Engineering for the purposes of determining the availability and capacity of existing utility services to serve any proposed or future development(s). Application for utility service is necessary before plats can be recorded.
  - All residential developers must contact MLGW's Residential Engineer at Builder Services: (901)729-8675 to initiate the utility application process.
  - All commercial developers must contact MLGW's Builder Services line at 729-8630 (select option 2) to initiate the utility application process.
- It is the responsibility of the owner/applicant to pay the cost of any utility system improvements necessary to serve the proposed development with electric, gas or water utilities.

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Office of Sustainability and Resilience: No comments received.

#### **APPLICATION**



# Memphis and Shelby County Office of Planning and Development CITY HALL 125 NORTH MAIN STREET-SUITE 468 MEMPHIS, TENNESSEE 38103-2084 (901) 576-6601

#### APPLICATION FOR REZONING APPROVAL

Date: 8/3/21		Case #: <b>Z</b>	
	PLEASE TYPE	OR PRINT	
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		2000000 TOURS - 200000000 TOURS - 200000000000000000000000000000000000	901-305-5000
AND SOMEONING THE RESIDENCE OF STREET, AND		City/State: HORN LAKE, MS	Zip <u>38637</u>
Property Owner E-Mail Address: MIML	_CMEMPHIS@GMAIL.COM		
Applicant: MIM LLC		Phone # _	
Mailing Address:		City/State:	Zip
Applicant E- Mail Address:			
Representative: Dedrick Brittenum, Jr.		Phone #: 9	901-552-5994
Mailing Address: 3385 Airways Blvd, Ste 225	)	City/State: Memphis, tn	Zip <u>38116</u>
Representative E-Mail Address: db@brit	tenumlaw.com		
Engineer/Surveyor: Wes Ashworth, PE, RLS		Phone #_90	1-414-8767
Mailing Address: 10815 Collierville Road			
Engineer/Surveyor E-Mail Address: we			
			#.
	Northeast corner of Hindman	and Henderson	
planting to hearest merseeing street.			
	D	D 10	1.2
Area in Acres:		Parcel 2 Pa	rcel 3
	R6	· · · · · · · · · · · · · · · · · · ·	
	Vacant	· ·	
Requested Zoning	CMU-3		
Pre-Application Conference held on:	07/30/2021 with	Burk Renner	
Neighborhood Meeting Requirement	Met: Yes or 1	Not Yet or Not Required (se	e below)
	(II yes, docume	entation must be included with a	application materials)
I (wa) harehy make application	for the rezening	alassification described	abaya and an the
result in the postnenoment of the	accept responsible	my for any errors or on	Scholby County
property nereby authorize the ming	or this application an	d the above named persons to	act on my benaif.
MTM 11C	08/05/2021	A MATUR	08/05/2021
Property Owner of Record		licant	2500
Area in Acres: Existing Zoning: Existing Use of Property Requested Use of Property Requested Zoning  Pre-Application Conference held on: Neighborhood Meeting Requirement  I (we) hereby make application accompanying materials. I (we) result in the postponement of the Land Use Control Board at the n property hereby authorize the filing of the Control Property Owner of Record	Parcel 1 1.04 R6 Vacant  CMU-3  07/30/2021 with  t Met: Yes or 1 (If yes, docume a for the rezoning accept responsibile application being ext available hearing of this application an	Parcel 2 Pa  Burk Renner  Not Yet or Not Required (see that ion must be included with a classification described ality for any errors or om reviewed by the Memphising date. I (We), owner(s) of	above and on the issions which may & Shelby County the above described

#### LETTER OF INTENT



Law plle

ATTORNEY AT LAW
Airways Professional Center — Aerotropolis
3385 Airways Boulevard, Suite 229
Memphis, Tennessee 38116 USA
Telephone 901.347.3978
Facsimile 901.800.1927
db/abrittemanlaw.com

5 August 2021

Via Hand Delivery

Josh Whitchead, AICP
Planning Director / Administrator
Memphis & Shelby County Office of Planning and Development
City Hall
125 North Main Street, Suite 468
Memphis, TN 38103

RE: 0 Hindman Avenue - Application for Rezoning Approval

Hindman Avenue Section - Application for Street Closure Approval

#### Dear Administrator Whitehead:

I represent MIM LLC for rezoning and street closure applications to redevelop the above tract for Commercial Mixed Use-3 zoning district (CMU-3) use. The subject property is currently zoned R-6 with no overlay district. The applications request approval of the CMU-3 zoning district and the closure of the section of Hindman Avenue adjacent to the requested rezoning parcel on the south. Although the large tract due east is zoned R-6, it is showing on the zoning map legend as industrial use. Upon approval, the Hindman parcel and the closed Hindman Avenue section will be one lot located adjacent to I-40 west. Enclosed are the Application for Rezoning Approval and the Applications for Right-of-Way Vacation/ Street/Alley/Closure Approval. Please consider these applications as companion cases.

The 0 Hindman Avenue parcel was sold at tax sale to the Shelby County Land Bank in January 2020. It was sold to the Applicant here as the highest bidder upon confirmation by the Shelby County Commission in February 2021 for future development. The subject parcel is vacant land. The closure of the section of Hindman Avenue currently used for illegal dumping of furniture, tires, trash and other debris will reduce blight in the area.

Thank you for your attention and should you have questions or comments, please advise.

I remain,

Dedrick Brittenum, Jr.

enclosure

#### **SIGN AFFIDAVITS**

AFFIDAVIT

on the 25 day of H19057 2021, I posted [Public Notice pertaining to Case No. 22021-12at D Hindman MD5 T providing notice of a Public Hearing before the Land Use Control Memphis City Council, Shelby County Board of Commission consideration of a proposed Land Use Action [Planned Development Special Use Permit, Zoning District Map Amendment, and/or Alley Closure), a photograph of said sign(s) being attached hereon and a the sign purchase receipt or rental contract attached hereto.    State   Stat	Angust 2021, I posted Public Notice Signs 2021, I p	method the 2D day of August 2021, I posted [Public Notice Signature of August 2021, I posted I posted Notice Signature of August 2021, I posted I posted Notice Signature of August 2021, I posted I posted Notice Signature of August 2021, I posted I posted Notice Signature of August 2021, I posted Notice Signature of August 2021, I posted I public Notice Signature of August 2021, I posted I public Notice Signature of August 2021, I posted I public Notice Signature of August 2021, I posted I public Notice Signature of August 2021, I posted I public Notice Signature of Aug	Shelby County	
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Special Use Permit, Zoning District Map Amendment, and/or Alley Closure), a photograph of said sign(s) being attached hereon and a the sign purchase receipt or rental contract attached hereto.  Stouth Representative Date  Subscribed and sworn to before me this Lodge day of Anglet , 20  Notary Public  My commission expires: OT/OS/AOJA  Suprany Public & Suprany P	pires: OT/05/2022  Topines: OT/05/2022  Topines: OT/05/2022  Topines: OT/05/2022  Topines: OT/05/2022  Topines: OT/05/2022  Topines: OT/05/2022	Special Use Permit, Zoning District Map Amendment, and/or Aliey Closure), a photograph of said sign(s) being attached hereon and a contract attached hereto.  Special Use Permit, Zoning District Map Amendment, and a contract attached hereto.  Special Use Permit, Zoning District Map Amendment, and a contract attached hereto.  Special Use Permit, Zoning District Map Amendment, and a contract attached hereto.  Special Use Permit, Zoning District Map Amendment, and a contract attached hereto.  Special Use Permit, Zoning District Map Amendment, and a contract attached hereto.  Special Use Permit, Zoning District Map Amendment, and a contract attached hereto.  Special Use Permit, Zoning District Map Amendment, and a contract attached hereto.  Special Use Permit, Zoning District Map Amendment, and a contract attached hereto.  Special Use Permit, Zoning District Map Amendment, and a contract attached hereto.  Special Use Permit, Zoning District Map Amendment, and a contract attached hereto.  Special Use Permit, Zoning District Map Amendment, and a contract attached hereto.  Special Use Permit, Zoning District Map Amendment, and a contract attached hereto.  Special Use Permit, Zoning District Map Amendment, and a contract attached hereto.  Special Use Permit, Zoning District Map Amendment, and a contract attached hereto.  Special Use Permit, Zoning District Map Amendment, and a contract attached hereto.  Special Use Permit, Zoning District Map Amendment Amendmen		17
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	Sheiliny County
	State of Tennessee
	I. Hentiss Mitchell being duly swom, depose and say that at amon on the 20 day of August, 2021 , I posted Public Notice Sign(s, pertaining to Case No. SAC 21-07 at O Hind man Rd , MPMS TN
	providing netice of a Public Hearing before the Land Use Control Board Memphis City Council, Shelby County Board of Commissioners fo consideration of a proposed Land Use Action (Planned Development Special Use Permit, Zoning District Map Amendment, Stree and/or Alley Closure), a photograph of said sign(s) being attached hereon and a copy o
	the sign purchase receipt or rental contract attached hereto.
_	- Trouten Mitchell 8/20/202
	Owner, Applicant or Representative Date
	Subscribed and sworn to before me this 20 Hy day of August, 2021.
	Notary Public
	My cemmissien expires: 05/05/0024
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Staff Report Z 2021-12 & SAC 2021-07 September 9, 2021 Page 23

#### **LETTERS RECEIVED**

One letter of opposition was received at the time of completion of this report and has subsequently been attached.

#### Frayser/Hindman Ave proposal

#### Tess Momberger <etmomberger42@gmail.com>

Thu 9/2/2021 9:48 PM

To: Shupe-Diggs, Clarke < Clarke. Shupe. Diggs@memphistn.gov>

CAUTION: This email originated outside of the City of Memphis organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

\_\_\_\_\_

Hello,

I am a resident of Henderson Street, which runs perpendicular to Hindman avenue. I have concerns with the rezoning of this one acre parcel of land since the whole of the area surrounding it is zoned residential. As a resident of this area, I am concerned with the rezoning without having any idea as to what will be the use of this land, or how the rezoning of this acre will affect the rezoning of other parcels of land in the future. Henderson and Hindman as well and quiet street as well as nearby Steele and Ontario streets. I have concern for commercial properties/ billboards/more cell-radio towers beginning to form in this residential neighborhood.

- Tess

## **Brittenum**

#### Law plle

ATTORNEY AT LAW
Airways Professional Center — Aerotropolis
3385 Airways Boulevard, Suite 229
Memphis, Tennessee 38116 USA
Telephone 901.347.3978
Facsimile 901.800.1927
db@britterumlaw.com

5 August 2021

Via Hand Delivery

Josh Whitehead, AICP
Planning Director / Administrator
Memphis & Shelby County Office of Planning and Development
City Hall
125 North Main Street, Suite 468
Memphis, TN 38103

RE: 0 Hindman Avenue - Application for Rezoning Approval

Hindman Avenue Section - Application for Street Closure Approval

#### Dear Administrator Whitehead:

I represent MIM LLC for rezoning and street closure applications to redevelop the above tract for Commercial Mixed Use-3 zoning district (CMU-3) use. The subject property is currently zoned R-6 with no overlay district. The applications request approval of the CMU-3 zoning district and the closure of the section of Hindman Avenue adjacent to the requested rezoning parcel on the south. Although the large tract due east is zoned R-6, it is showing on the zoning map legend as industrial use. Upon approval, the Hindman parcel and the closed Hindman Avenue section will be one lot located adjacent to I-40 west. Enclosed are the Application for Rezoning Approval and the Applications for Right-of-Way Vacation/
Street/Alley/Closure Approval. Please consider these applications as companion cases.

The 0 Hindman Avenue parcel was sold at tax sale to the Shelby County Land Bank in January 2020. It was sold to the Applicant here as the highest bidder upon confirmation by the Shelby County Commission in February 2021 for future development. The subject parcel is vacant land. The closure of the section of Hindman Avenue currently used for illegal dumping of furniture, tires, trash and other debris will reduce blight in the area.

Thank you for your attention and should you have questions or comments, please advise. I remain,

Dedrick Brittenum, Jr.

Very truly yours,

enclosure

RUSSELL JAMES C & SANDRA J 2576 STEELE ST # MEMPHIS TN 38127

CAVALRY INVESTMENT GROUP LLC ANDRES MINDEL 1647 OBERLE AVE # MEMPHIS TN 38127

294 E CAROL WAY # SAN BERNARDINO CA 92408

LE VINH 6423 SUMMER GALE DR # MEMPHIS TN 38134

HARRELL JERRY L 4850 GOLDEN PKWY #B213 BUFORD GA 30518

WHEELER JEFF AND JOHN BRIGGS 1751 N PARKWAY # MEMPHIS TN 38112

THOMAS TOM 10110 ELLIOT AVE S# BLOOMINGTON MN 55420

SHELBY COUNTY TAX SALE 0803 EXH # 328498 PO BOX 2751 # MEMPHIS TN 38101

SHELBY COUNTY TAX SALE 16.03 PO BOX 2751 # MEMPHIS TN 38101

PO BOX 1050 # COLDWATER MS 38618

1647 OBERLE AVE # MEMPHIS TN 38127

F & S PROPERTY INVESTMENTS LLC CAVALRY INVESTMENT GROUP LLC MORENO JOSE DE JESUS AGUILAR 1528 HINDMAN AVE # MEMPHIS TN 38127

MAPLES LINDA G AND JULIUS E MAPLES (RS) ALLEN HENRY 2548 STEELE ST # MEMPHIS TN 38127

2520 STEELE # MEMPHIS TN 38127 REDD MARY 1490 HINDMAN AVE # MEMPHIS TN 38127

MICHEL RAYMOND 8707 FOUNTAIN VIEW CV # CORDOVA TN 38016

WALKER ODIES 1443 TUNICA # MEMPHIS TN 38108

VELASCOCAPITAL LLC 1421 EAGLE VISTA DR #1A LOS ANGELES CA 90041

SWINFORD WILLIAM A 2546 HENDERSON ST # MEMPHIS TN 38127

MITCHELL BURNIE JR 466 FERNHILL CV # MEMPHIS TN 38127

COCHRAN TEDDY D 5605 S CR 33 # DYESS AR 72330

BERRETO MARIA A 2538 STEELE ST # MEMPHIS TN 38127

ALLEN HENRY L & ANNIE M 2520 STEELE ST # MEMPHIS TN 38127

MAPLES LINDA G AND LUIS M MIRANDA 2544 STEELE ST # MEMPHIS TN 38127

SHELBY COUNTY TAX SALE 0703 EXH #12517 PO BOX 2751 # MEMPHIS TN 38101

WILLIAMS KAREN A P.O.BOX 27643 # MEMPHIS TN 38167

ALLEN HENRY 2520 STEELE # MEMPHIS TN 38127

MICHEL RAYMOND 8707 FOUNTAIN VIEW CV # CORDOVA TN 38016

MITCHELL BURNTE JR 2511 HENDERSON ST # MEMPHIS TN 38127

HENDERSON LARRY & DEBORAH 1818 RUSSELL BOND RD # MILLINGTON TN 38053

HENSERSON LARRY & DEBORAH 1818 RUSSELL BOND RD # MILLINGTON TN 38053

BOLTON LUCIOUS J JR 725 E GAGE AVE # MEMPHIS TN 38106

BRIGGS JON K 1751 N PARKWAY # MEMPHIS TN 38112

POWELL ANTONIO 44 FAIN ST # NASHVILLE TN 37210

VERTICAL BRIDGE LANDGO LLC 2800 POST OAK BLVD #3700 HOUSTON TX 77056 RUSSELL JAMES C & SANDRA J 2576 STEELE ST # MEMPHIS TN 38127

CAVALRY INVESTMENT GROUP LLC 1647 OBERLE AVE # MEMPHIS TN 38127

ANDRES MINDEL 294 E CAROL WAY # SAN BERNARDINO CA 92408

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- 070029 00012 THOMAS TOM
- 070028 00023 F & S PROPERTY INVESTMENTS LLC
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- 070028 00019 MITCHELL BURNIE JR
- 070029 00026 ALLEN HENRY L & ANNIE M
- 070029 00025 WILLIAMS KAREN A
- 070029 00041 MITCHELL BURNTE JR
- 070029 00021 ANDRES MINDEL
- 070029 00042 WHEELER JEFF AND JOHN BRIGGS
- 070028 00016 SHELBY COUNTY TAX SALE 16.03
- 070029 00019 MORENO JOSE DE JESUS AGUILAR
- 070029 00023 REDD MARY



City Hall - 125 N. Main Street, Suite 468 - Memphis, Tennessee 38103 - (901) 636-6619

#### **Property Owner's Affidavit**

In the event the applicant is not the Owner, the following shall be signed and acknowledges by the owner.

Memphis and Shelby County Unified Development Code Section 12.3.1

OWNER: Includes the holder of legal title as well as holders of any equitable interest, such as trust beneficiaries, contract purchasers, option holders, lessees under leases having an unexpired term of at last ten years, and the like. Whenever a statement of ownership is required by the Memphis and Shelby County Unified Development Code, full disclosure of all legal and equitable interest in the property is required. Memphis and Shelby County Unified Development Code Section 12.3.1.

	Development Code Section 12.3.1.
5	MIM, LLC  Restry Mitchelf, state that I have read the definition of "Owner" as outlined in the Memphis and Shelby
	County Unified Development Code Section 12.3.1 and hereby state that (select applicable box):
	I am the owner of record as shown on the current tax rolls of the county Assessor of Property; the mortgage holder of record as shown in the mortgage records of the county Register of Deeds; purchaser under a land contract; a mortgagee or vendee in possession; or I have a freehold or lesser estate in the premises
	I have charge, care or control of the premises as trustee, agent, executor, administrator, assignee, receiver, guardian or lessee (and have included documentation with this affidavit)
	of the property located at 1544 Hindman Avenue 10 Hindman and further identified by Assessor's Parcel Number 070028 00016 , for which an
	application is being made to the Division of Planning and Development.
-	Subscribed and sworn to (or affirmed) before methis 300 day of fugust in the year of 2024.  What is no not a public methis 10 No. 123210 doi: **  ** ** ** ** ** ** ** ** ** ** ** **
	Signature of Notary Public My Commission Expires



## Memphis and Shelby County Office of Planning and Development CITY HALL 125 NORTH MAIN STREET-SUITE 468 MEMPHIS, TENNESSEE 38103-2084 (901) 576-6601

#### APPLICATION FOR REZONING APPROVAL

Date: 8/3/21		Case #:	
	PLEASE TYPE	OR PRINT	
Property Owner of Record: MIM LLC		Phone #	901-305-5000
Mailing Address: PO BOX 488		City/State: HORN LAKE, MS	Zip <u>38637</u>
Property Owner E-Mail Address: MIMLL	CMEMPHIS@GMAIL.COM		
Applicant: MIM LLC		Phone #	<b>#</b>
Mailing Address:		City/State:	Zip
Applicant E- Mail Address:			
Representative: Dedrick Brittenum, Jr.		Phone #	901-552-5994
Mailing Address: 3385 Airways Blvd, Ste 229		City/State: Memphis, tn	Zip 38116
Representative E-Mail Address: db@britte	enumlaw.com		
Engineer/Surveyor: Wes Ashworth, PE, RLS		Phone #	901-414-8767
Mailing Address: 10815 Collierville Road		City/State: Collierville, TN	Zip_38017
Engineer/Surveyor E-Mail Address: wes	sley@ashworthengineering.c	om	
Street Address Location: 0 Hindman			
Distance to nearest intersecting street: N	Northeast corner of Hindman	and Henderson	
	Parcel 1	Parcel 2	Parcel 3
Area in Acres:	1.04	T di coi 2	Laron B
Existing Zoning:	R6	-	
Existing Use of Property	Vacant		
Requested Use of Property			
Requested Zoning	CMU-3		
Pre-Application Conference held on:	07/30/2021 with	Burk Renner	
Neighborhood Meeting Requirement		Not Yet or Not Required entation must be included wit	
	(11 yes, docume	mation must be included wit	ii application materials)
I (we) hereby make application	for the rezoning	classification described	l ahove and on the
accompanying materials. I (we)			
result in the postponement of the	그리 이 그래요 하고있다고 요요하다가 있다면 하는 것이 없는데 그런 것 같아요? 이 없어 없다면서.	마이스 아이트 아이를 가는 그들은 아이트 아이들에게 되었다면 하게 되었다면 하게 하는 것이 되었다면 하게 되었다면 하다면 하게 되었다면 하게	[18] 발생 [18] [18] [18] [18] [18] [18] [18] [18]
Land Use Control Board at the ne			
property hereby authorize the filing o	i this application an	d the above named persons	to act on my behalf.
MIM LLC	08/05/2021	into Mithell	08/05/2021
Property Owner of Record	Date App	licant	Date

#### UDC Article 9.5, Zoning Change

A zoning change shall correspond with the boundary lines of existing tracts and lots. Where the boundaries of a zoning change request stop short of an exterior property line, it must be possible to subdivide and develop that portion of the property outside the proposed zoning change boundary in accordance with the existing zoning and other requirements of this development code (sub-section 9.5.2A).

All zoning requirements shall be met within the boundaries of the area being rezoned. If all the requirements cannot be met on the site being rezoned, the zoning change shall be expanded to include all property necessary to meet zoning requirements (sub-section 9.5.2B).

Any zoning change affecting property within a community redevelopment area shall be supported by the Community Redevelopment Plan for area (sub-section 9.5.2C).

# \*ALL APPLICATIONS MUST BE SUBMITTED IN PERSON AND THE SUBMITTER MUST RECEIVE A RECEIPT OF ACCEPTANCE FROM STAFF

#### REQUIREMENTS PRIOR TO APPLICATION SUBMISSION

**PRE-APPLICATION CONFERENCE** - Not more than six (6) months nor less than five (5) working days prior to filing an application, the applicant shall arrange for a mandatory pre-application conference with OPD.

**NEIGHBORHOOD MEETING** – At least ten (10) days, but not more than 120 days, prior to a hearing before the Land Use Control Board, the applicant shall provide an opportunity to discuss the proposal with representatives from neighborhoods adjacent to the development site which the hearing involves (Section 9.3.2):

- 1) Zoning changes not in compliance with any plans to be considered (see Chapter 1.9):
- 2) Special use permit and major modification to a special use permit; and
- 3) Planned development outline plan or major modification to a planned development outline plan.

SIGN POSTING – A sign or signs shall be erected on-site no more than 30 days or less than 10 days prior to the date of the Land Use Control Board hearing. See Sub-Section 9.3.4C of the UDC for further details on sign posting.

The following documentation shall be provided to OPD to verify compliance with this requirement: A copy of the letter sent to neighborhood associations and abutting property owners and a copy of the mailing list used to send notice.

### GUIDE FOR SUBMITTING ZONING DISTRICT RECLASSIFICATION APPLICATION

- A <u>THE APPLICATION</u> Two (2) collated sets of this application in accordance with the requirements of the Unified Development Code and as outlined below shall be submitted to OPD. The following information is required to be submitted for consideration as a complete application, and except for copies of the plot plan, shall be provided on sheets of 8.5"x11" in size. The application with original signatures shall be completed either with legible print or typewritten. Each application set shall be compiled in the following order:
  - 1) This application, 8.5"x11" Plot Plan, Concept Plan\*, Legal Description, Vicinity Map, 2-3 sets of gummed-backed Mailing Labels, 2 sets of paper copied Mailing Labels, Letter of Intent, 20"x24" and a copy of Deed(s).
  - 2) A compact disc with all submittal documents in "PDF" and any proposed conditions in "WORD".

(For additional information concerning these requirements contact Land Use Control Section at (901) 576-6601.)

#### B PLOT PLAN AND LEGAL DESCRIPTION

- 1) Two (2) copies of the plot plan, drawn to scale (1"=50', =100' or =200'), showing each parcel to be considered. Two or more parcels may be described on one sheet. If property is encumbered by easements, show type and location on plot plan.
- 2) Two (2) copies of legal description shall be attached to plot plan if not shown or described on the plan.

#### C VICINITY MAP

Two (2) copies showing the subject property (boldly outlined) and all parcels within a 500'radius. If the 500'radius includes less than 25 property owners, the radius shall be extended at 100' intervals to reach a minimum of 25 property owners provided, however, that the maximum total radius is 1,500'. Show for each parcel its dimensions, owner's name (on the vicinity map unless prior approval is given to do otherwise) and the public streets, alleys or private drives that it abuts. In situations where the parcels on the map are so small that the property owner's names are unable to fit and numbered legend is used, every effort should be made to place the legend on the map itself and not a separate sheet.

#### D LIST OF NAMES AND ADDRESSES

- 1) Two (2) complete lists of names and mailing addresses, including zip codes, of all owners shown on the vicinity map, typewritten on 1"x 2<sup>5/8</sup>" self-adhesive mailing labels and 2 paper sets. Three (3) sets of gummed back mailing labels and paper copies are needed for subject properties located in Shelby County but within five (5) miles of the Memphis City limits.
- 2) Two (2) self-adhesive mailing labels (1"x 2<sup>5/8</sup>") each for the owner of record, applicant, representative and/or engineer/surveyor.

#### E <u>FILING FEES</u> (All Fees Are Subject To Change without Prior Notice)

- 1) Residential Rezoning: 5.0 Acres or less=\$750. Each additional acre or fraction thereof =\$75 per acre Maximum =\$7,500.
- 2) Non-Residential Rezoning: 5 acres or less = \$1,000.00. Each additional acre or fraction thereof =\$100.00 per acre. Maximum fee=\$7,500.00

Make check payable to "M/SC Office of Planning and Development"

<sup>\*</sup>The requirement for submission of a Concept Plan with a Rezoning Application may be waived by the Office of Planning and Development.



### Shelby County Tennessee

### Shelandra Y Ford

Shelby County Register

As evidenced by the instrument number shown below, this document has been recorded as a permanent record in the archives of the Office of the Shelby County Register.

#### 21094969 07/30/2021 - 03:33:30 PM

4 PGS	
CHRISTINAM 2274423-21094969	
VALUE	800.00
MORTGAGE TAX	0.00
TRANSFER TAX	2.96
RECORDING FEE	20.00
DP FEE	2.00
REGISTER'S FEE	1.00
TOTAL AMOUNT	25.96

#### SHELANDRA Y FORD

REGISTER OF DEEDS SHELBY COUNTY TENNESSEE

#### QUIT CLAIM DEED

KNOW ALL MEN BY THESE PRESENTS, that the County of Shelby, a political subdivison of the State of Tennessee, for and in consideration of:

#### EIGHT HUNDRED DOLLARS AND NO/100S

\$800.00 Dollars,

does hereby bargain, sell, remise, quit claim and convey unto the said:

MIM LLC

the following described real estate located in Shelby County, Tennesee, to-wit:

#### (SEE ATTACHED EXHIBIT "A")

Being the same property conveyed to Shelby County Government in Tax Sale 1603 on 01/14/2020 which sale was confirmed in Docket # 2018-2

Property Address: 0 HINDMAN

Parcel # 07002800000160

Conveyance of the above described property is made without warranties of any sort.

RECHNA MORRISON NEWMAN, SHELBY COUNTY TRUSTEE

STATE OF TENNESSEE, COUNTY OF SHELBY

Before me, a Notary Public in and for said County, duly commissioned and qualified, personally appeared Regina Morrison Newman, as Trustee of Shelby County, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that the executed the same for the purposes therein contained.

WITNESS my hand and Notarial Seal at offige

... north to

TENNESSEE TONY III

My Commission Expires:

IN WITNESS WHEREOF, the grantor has caused this instrument to be executed by the duly

authorized County Mayor, this \_\_\_\_\_\_\_

day of JULY

,2021

LEE HARRIS, SHELBY COUNTY MAYOR

STATE OF TENNESSEE, COUNTY OF SHELBY

NOTARY PUBLIC

My Commission Expires:

APPROVED AS TO FORM:

(John B. Turner, Ur. #018268) DELINQUENT TAX ATTORNEY STATE
OF
TENNESSEE
NOTARY
PUBLIC

#### RECORDING DATA ONLY

#### Return Address:

Office of the Shelby County Trustee 157 Poplar Avenue - Third Floor Memphis, TN 38103

ATTENTION: LESLIE BLESSIKE

#### Property Address:

0 HINDMAN

07002800000160

Mail Tax Bills To:

MIM LLC

3774 CONRAIL CIR.

HORNLAKE MS 38637

#### Property Owner:

MIM LLC

3774 CONRAIL CIR.

HORNLAKE MS 38637

This instrument prepared by: (John B. Turner, Jr. #018258) DELINQUENT TAX ATTORNEY 157 POPLAR AVENUE, 2ND FLOOR MEMPHIS, TN 38103

STATE TAX\_ REGISTER'S FEE\_ RECORDING FEE TOTAL\_

I/We hereby swear/affirm that to the best of affiant's knowledge, information, and belief, the actual consideration for this transfer

Subscribed and sworn to before me

JUL 2 2 2021

My Commission expires:

STATE O.
TENNESSEE
NOTARY
PUBLIC
OMNEMBER OF THE PROPERTY OF T

#### "Exhibit A"

Beginning at a point in the east line of Henderson Road and the center line of Hindman Ferry Road; thence east with the center line of Hindman Ferry Road 215 feet to a point, said point being the southeast corner of the W. A. Henderson 24.50 acre tract; thence north along the Henderson east line 210 feet to a point; thence west parallel with Hindman Ferry Road a distance of 215 feet to a point in the east line of Henderson Road; thence south along the east line of Henderson Road 210 feet to the point of beginning.

Being the same property as described in Instrument No. 07009679. The above description is the same as found in prior deed of record as a boundary line survey was not done at the time of this conveyance.

PARCEL ID: 07002800000160

I, John B. Turner Jr., do hereby make oath that I am a licensed attorney and/or the custodian of the paper version of the electronic record tendered for registration herewith and that this is a true and correct copy of the electronic record executed pursuant to § 47-10-112 and other provisions of the Uniform Electronic Transactions Act or other provisions of law.

STATE OF TENNESSEE) COUNTY OF SHELBY)

On this JUL 0 2 2021 before me personally appeared John B. Turner Jr., to me known to be the person described in and who acknowledges that this certification is true and correct and whose signature I have witnessed.

My Commission Expires:

#### LEGAL DESCRIPTION

PID 070028-00016

BEGINNING AT A NAIL SET AT THE INTERSECTION OF THE EAST LINE OF HENDERSON STREET (50' WIDE) AND THE CENTERLINE OF HINDMAN AVENUE (40' WIDE) HAVING TN STATE PLANE COORDINATES (NAD83) OF N:337602.08, E:769901.92; THENCE NORTHERLY ALONG THE EAST LINE OF HENDERSON ST. WITH A BEARING OF N 03°14'55" E A DISTANCE OF 210.00 FEET TO AN IRON ROD SET AT THE SOUTHWEST CORNER OF LARRY & DEBRA HENDERSON TRACT; THENCE ALONG THE SOUTHERLY LINE OF SAID HENDERSON TRACT EASTERLY WITH A BEARING OF S 86°07'05" E A DISTANCE OF 215.00 FEET TO A IRF; THENCE ALONG THE WESTERLY LINE OF VERTICAL BRIDGE LANDCO TRACT SOUTHERLY WITH A BEARING OF S 03°14'55" W A DISTANCE OF 210.00 FEET TO AN IRON ROD SET; THENCE ALONG THE CENTER OF HINDMAN AVENUE WESTERLY WITH A BEARING OF N 86°07'05" W A DISTANCE OF 215.00 FEET TO THE POINT OF BEGINNING.; CONTAINING 45147.24 SQUARE FEET OR 1.036 ACRES MORE OR LESS.

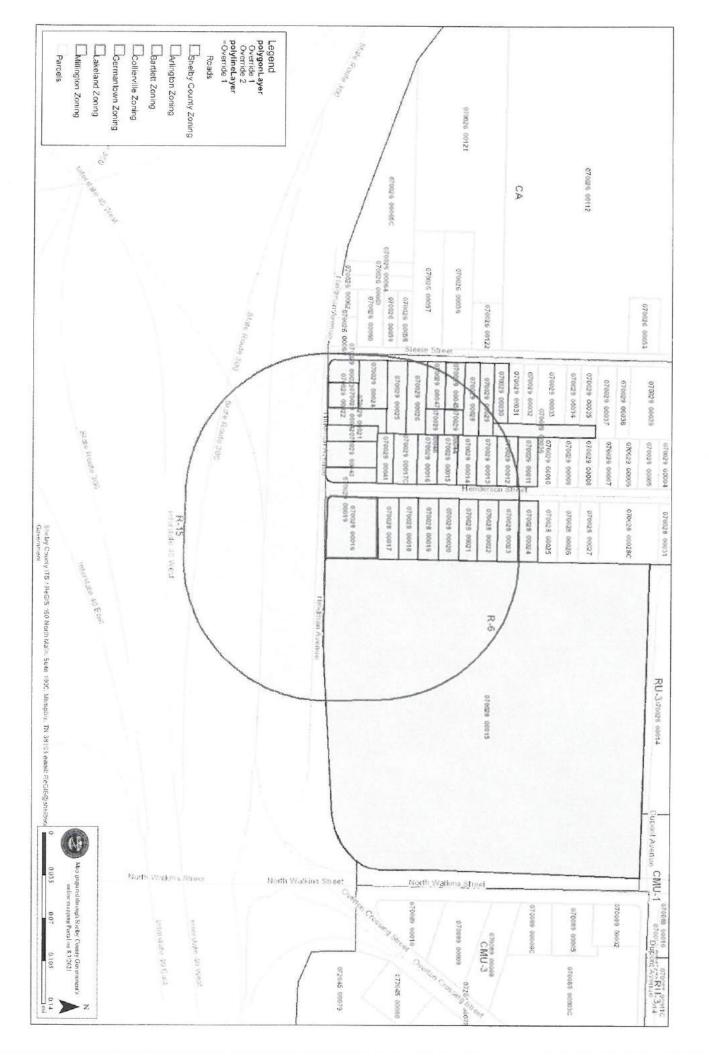
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## OWNERS CERTIFICATE

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SCHOOL SALES

SPACE HELD FOR FLANNING CERTIFICATE

OWNERDENE ME DAGS/ PREMINSS MITCHELL PO BOX 488 PORNLAKE ME DAGS/ PROMINENT ME DAGS/ PROM DATE ANGUST 2021 DATE ANGUST 2021 NUMBER OF LOTS, NA ACREAGE 0 1 AC REZONING PLOT PLAN FEAST TARGET SERVICES #O HINDMAN ROAD ASHWORTH ENGINEERING, PLIC 10015 COLLIERVILLE BOND COLLIERVILLE BOND WARD T. BLOCK ZE PARLICE, 16 SEPT 36 3017